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Legal Committee of International Civil Aviation Organization; to be held at Washington, D.C. (open) 4-8 through 4-23-75. 12296; 3-18-75

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Elderly and handicapped transportation services; to be held in Chicago, Ill. 4-11-75. 10697; 3-7-75

Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statute citation. The list is kept current in each issue of the Federal Register and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 2166. Pub. Law 94-12
Tax Reduction Act of 1975
(Mar. 29, 1975; 89 Stat. 26)

CUMULATIVE LIST OF PARTS AFFECTED—APRIL

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

SUBCHAPTER G—COST ACCOUNTING STANDARDS

PART 408—COST ACCOUNTING STANDARD

Depreciation of Tangible Capital Assets

On January 29, 1975, a Cost Accounting Standard entitled Depreciation of Tangible Capital Assets was published in the FEDERAL REGISTER (40 FR 4259 et seq.).

As shown in the following § 408.80(a), the effective date of the standard which was reserved in the January 29, 1975 publication is July 1, 1975.

In consideration of the foregoing, § 408.80(a) is revised to read as follows:

§ 408.80 Effective date.

(a) The effective date of this Cost Accounting Standard is July 1, 1975.

(84 Stat. 196, section 103 (50 U.S.C. App. 2168))

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.75-8495 Filed 4-1-75;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Marketing Quota Referendum Results

Basis and Purpose. Sections 724.26 and 724.27 are issued pursuant to and in accordance with section 312 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the marketing quota referendum results for cigar-binder (types 51 and 52) and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, respectively, for the three marketing years beginning October 1, 1975, October 1, 1976, and October 1, 1977. Under the provisions of the same section of the Act, the Secretary proclaimed national marketing quotas for cigar-binder (types 51 and 52) tobacco and for cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, for the 1975-76, 1976-77, and 1977-78 marketing years, and announced the amount of the national marketing quota for each of such kinds of tobacco for the 1975-76 marketing year (40 FR 5135). The Secretary announced (40 FR 6381) that

separate referendums would be conducted by mail ballot during the period February 24-28, 1975, each inclusive, to determine whether cigar-binder (types 51 and 52) tobacco producers and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco producers were in favor of or opposed to marketing quotas for the three marketing years beginning October 1, 1975, October 1, 1976, and October 1, 1977.

The material previously appearing in these sections under centerhead Marketing Quota Referendum Results remains in full force and effect as to the crops to which they were applicable.

The only purpose of this document is to proclaim the results of the referendums. It is hereby found and determined that with respect to this proclamation, application of the notice and procedure provisions of 5 U.S.C. 553 is unnecessary.

Sections 724.26 and 724.27 are revised to read as follows:

§ 724.26 Cigar-binder (types 51 and 52) tobacco—1975-76, 1976-77 and 1977-78 marketing years.

In a referendum of farmers engaged in the production of the 1974 crop of cigar-binder (types 51 and 52) tobacco held during the period February 24-28, each inclusive, 199 farmers voted. Of those voting, 183 or 92.0 percent, favored quotas for a period of three years beginning October 1, 1975; 16 or 8.0 percent were opposed to quotas. Therefore, the national marketing quota of 6.8 million pounds proclaimed February 1, 1975 (40 FR 5135, 7619) for cigar-binder (types 51 and 52) tobacco for the 1975-76 marketing year will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1975, October 1, 1976 and October 1, 1977.

§ 724.27 Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco—1975-76, 1976-77 and 1977-78 marketing years.

In a referendum of farmers engaged in the production of the 1974 crop of cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco held during the period February 24-28, each inclusive, 3526 farmers voted. Of those voting, 3053 or 86.6 percent, favored quotas for a period of three years beginning October 1, 1975; 473 or 13.4 percent were opposed to quotas. Therefore, the national marketing quota of 33.8 million pounds proclaimed February 1, 1975 (40 FR 5135, 7619) for cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1975-76 marketing year will be in effect, and marketing quotas will be in

effect for the three marketing years beginning October 1, 1975, October 1, 1976, and October 1, 1977.

(Secs. 312, 375, 52 Stat. 46, as amended, 68, as amended; (7 U.S.C. 1312, 1375))

Signed at Washington, D.C. on: March 28, 1975.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75-8451 Filed 4-1-75;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 991—HANDLING OF HOPS OF DOMESTIC PRODUCTION

Salable Quantity and Allotment Percentage for the 1975-76 Marketing Year

Notice was published in the February 28, 1975, issue of the FEDERAL REGISTER (40 FR 8566) regarding a proposal to establish, for the 1975-76 marketing year, beginning August 1, 1975, a salable quantity of 60,270,000 pounds, and an allotment percentage of 100 percent, for hops grown in Washington, Oregon, Idaho, and California. The salable quantity is the total quantity of hops from any crop grown in those states that may be freely handled by handlers. The salable quantity is prorated among producers by applying the allotment percentage to each producer's allotment base. The result is the quantity handlers may purchase from, or handle for, the producer.

The salable quantity and allotment percentage established by this action are based on a recommendation of the Hop Administrative Committee and other available information in accordance with provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons the opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

The proposed salable quantity and allotment percentage were based upon recommendations of the Committee made at their meeting of January 20, 1975, and are based on the following estimates for the marketing year beginning August 1, 1975:

(1) Total domestic consumption of 39,500,000 pounds of hops;

(2) Minus imports of 11,000,000 pounds of hops to result in domestic consumption of U.S. hops of 28,500,000 pounds;

(3) Plus total U.S. exports of 30,000,000 pounds of hops to equal 58,500,000 pounds total usage of U.S. hops;

(4) Minus a desirable inventory adjustment, as of September 1, 1976, of 5,000,000 pounds;

(5) Plus an adjustment of 6,770,000 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Thus, the salable quantity during the 1975-76 marketing year would be 60,270,000 pounds.

The allotment percentage is computed by subtracting from this salable quantity 1,000,000 pounds for additional allotment bases (for hops of the Fuggle variety pursuant to §§ 991.38(b) and 991.138(c)), and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the 1,000,000 pound additional allotment bases for Fuggle variety hops.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, the applicable provisions of the marketing order, and other available information, it is found that to establish a salable quantity and allotment percentage as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable quantity and allotment percentage to be applicable to the 1975-76 marketing year (August 1, 1975-July 31, 1976) are established as follows:

§ 991.213 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1975.

The allotment percentage during the marketing year beginning August 1, 1975, shall be 100 percent, and the salable quantity shall be 60,270,000 pounds.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 27, 1975.

FLOYD F. HEDLUND,

Director,

Fruit and Vegetable Division.

[FR Doc.75-8482 Filed 4-1-75; 8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Inclusion of Canadian Plant Condensate in Crude Oil Runs for Old Oil Allocation Program

On February 21, 1975, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (40 FR 8228, February 26, 1975) to amend Part 211, Chapter II of Title 10, Code of Federal Regulations to permit inclusion of plant condensate imported

from Canada in a refiner's crude oil runs to stills for purposes of the old oil allocation program (the program). Written comments were invited to be submitted by March 10, 1975 and a public hearing was held on March 12, 1975.

Sixteen written comments were received by FEA in response to the notice of proposed rulemaking and two oral presentations were made at the public hearing. FEA has considered carefully the comments and statements submitted and is hereby adopting the amendment as proposed.

The amendment will be effective for refiners' crude run volumes commencing February 1, 1975. Due to the coverage by the program of Canadian plant condensate imports that have already passed through U.S. Customs, the amendment makes it clear that inclusion of the condensate in crude run volumes is only permissible where payment has been made of the import license fees applicable to crude oil imported for refining under the program. Further, the amendment provides that, for purposes of the relevant Presidential proclamation, Canadian plant condensate is deemed to be defined as crude oil under the program, thus making the condensate subject to the import license fees applicable to crude oil under the proclamation.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., on March 28, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

1. Section 211.62 is amended by adding a definition for "plant condensate" in the appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

"Plant condensate" means a natural gas plant product, mostly pentanes and heavier hydrocarbons, recovered and separated as a liquid at gas inlet separators or scrubbers in processing plants or field facilities and which is not suitable for blending with natural gasoline or refinery gasoline.

2. Section 211.67 is amended in paragraph (d) by adding a new subparagraph (3) to read as follows:

§ 211.67 Allocation of old oil.

(d) Adjustments to volume of crude oil runs to stills. . . .

(3) The volume of a refiner's crude oil runs to stills in a particular month for purposes of calculating its old oil supply ratio and the adjusted national old oil supply ratio shall include the total number of barrels of plant conden-

sate imported from Canada which is utilized in that month as an input to distillation units by a refiner, measured in accordance with the Bureau of Mines Form 6-1300-M. Plant condensate imported from Canada shall not be eligible for inclusion in the volume of a refiner's crude oil runs to stills under this paragraph (d) (3) unless upon the import thereof payment has been made of the import license fees applicable to crude oil as defined for purposes of this section which is imported for refining, as provided in Presidential Proclamation No. 3279, as amended. For purposes of section 3(a) (1) (viii) of that Proclamation, plant condensate imported from Canada is deemed to be defined as crude oil for purposes of this section.

[FR Doc.75-8539 Filed 3-28-75; 4:17 pm]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 75-197]

PART 563—OPERATIONS

Amendment Relating to Delegations of Authority

FEBRUARY 26, 1975.

The following summary of the amendments adopted by this Resolution is provided for the reader's convenience and is subject to the full provisions of this Resolution, including the provisions in the preamble thereof and in the amended regulations set forth below.

I. *Amended regulations.* The Board adopts delegations of authority to its Office of Examinations and Supervision relating to nationwide loans, participation loans, and earmarking of net worth accounts for Federal Insurance reserve purposes.

II. *Reason for amendments.* To provide for more prompt processing of applications in these areas.

The Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, considers it desirable to amend §§ 563.9, 563.9-1, and 563.11 of the rules and regulations for Insurance of Accounts (12 CFR 563.9, 563.9-1, and 563.11). The purpose of these amendments is to delegate authority to make certain approvals or disapprovals under those sections.

Under § 563.9(f) the Corporation may approve waivers for any limitation or requirement of § 563.9, *Nationwide lending*. Present § 563.9(f) is redesignated as § 563.9(f) (1) and a new § 563.9(f) (2) is added to delegate authority to approve or disapprove requests for waivers to the Director of the Board's Office of Examinations and Supervision. New § 563.9(f) (2) also authorizes such Director to delegate such authority to any Deputy Director of the Office of Examinations and Supervision under such circumstances and subject to such limitations as the Director may prescribe.

Similar delegations to the Director of the Office of Examinations and Supervision are adopted for actions under § 563.9-1(b) (2), *Participation loans*, and § 563.11(b), *Federal insurance reserve; establishment of and earmarking to*. Actions of the Director of the Office of Examinations and Supervision or his delegate under §§ 563.9(f) or 563.9-1(b) (2) would be effective with respect to required Corporation approval under § 563.9-2, *Sale of interests in loans on real estate located outside normal lending territory*, without having to amend that section.

Accordingly, the Board hereby amends §§ 563.9, 563.9-1, and 563.11 by revising paragraph (f) of § 563.9, adding a new § 563.9-1(b) (2) (iii), and by revising paragraph (b) of § 563.11, all to read as set forth below, effective February 26, 1975.

Because the above-described amendments relate to rules of Board organization, procedure, or practice, the Board hereby finds that notice and public procedure as to such amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and because publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date would, in the opinion of the Board, likewise be unnecessary for the same reason, the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

1. Revise § 563.9(f) to read as follows:

§ 563.9 Nationwide lending.

(f) *Exceptions to limitations or requirements.* (1) An insured institution may apply to the Corporation for a waiver of any limitation or requirement of this section. The application shall, to the extent appropriate, (i) be supported by a map showing the area in which such institution desires to invest its funds, (ii) state the type and character of the loan to be made, purchased, or sold, including the percentage of the loan to appraisal, (iii) show the need in such area for such loan by such institution, (iv) show that the institution is able to service the loan adequately or that the loan will be serviced adequately by or through a local eligible servicer, and (v) show that waiver of the limitation or requirement would be consistent with sound and economical home financing. In the case of an application for waiver of the scheduled items limitation of paragraph (e) (3) of this section, such application shall be filed by the insured institution having a scheduled items ratio in excess of that limitation. A loan made, purchased, or sold pursuant to an approval by the Corporation of such application shall comply with the terms and conditions of such approval. Such application shall be filed with the Supervisory Agent of the district in which the principal office of the applicant is located, with a copy to the Director, Office of Examinations and Supervision, Federal Home Loan Bank

Board, 320 First Street, N.W., Washington, D.C. 20552.

(2) The Director of the Office of Examinations and Supervision is authorized to approve or disapprove on behalf of the Corporation applications by insured institutions for waivers under paragraph (f) (1) of this section and in connection with approvals may specify the terms and conditions of such approvals. Such Director is also authorized to delegate to any Deputy Director of the Office of Examinations and Supervision the authority conferred by this paragraph (f) (2) under such circumstances and subject to such limitations as the Director may prescribe.

2. Add a new § 563.9-1(b) (2) (iii) as follows:

§ 563.9-1 Participation loans.

(b) *Loans with participation by local approved lenders on real estate located outside normal lending territory.* . . .

(2) *Scheduled items limitation.* . . .

(iii) The Director of the Office of Examinations and Supervision is authorized to approve or disapprove requests by insured institutions under paragraph (b) (2) (ii) of this section. Such Director is also authorized to delegate to any Deputy Director of the Office of Examinations and Supervision the authority conferred by this paragraph (b) (2) (iii) under such circumstances and subject to such limitations as the Director may prescribe.

3. Revise § 563.11(b) as follows:

§ 563.11 Federal insurance reserve; establishment of and earmarking to.

(b) *Earmarking of net worth accounts.*

(1) Any insured institution, by specific and appropriate corporate action, and with the prior written approval of the Corporation, may earmark as part of its Federal insurance reserve account (i) any portion of any other reserve account which, by such corporate action, is made subject to charges for losses only, or (ii) any amount of pledged savings accounts, capital stock (where permitted by State law to be used for absorbing losses), capital surplus, contributed surplus, or retained earnings. Such Corporation approval may set forth the conditions under which such earmarked amounts may be released.

(2) The Director of the Office of Examinations and Supervision is authorized to approve or disapprove on behalf of the Corporation earmarking under paragraph (b) (1) of this section and is authorized in connection with an approval to set forth the conditions under which earmarked accounts may be released. Such Director is also authorized to delegate to any Deputy Director of the Office of Examinations and Supervision the authority conferred by this paragraph (b) (2) under such circumstances and subject to such limitations as the Director may prescribe.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc. 75-8529 Filed 4-1-75; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-EA-12; Amdt. 39-2150]

PART 39—AIRWORTHINESS DIRECTIVE

Canadair Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Canadair CL-44D4 and CL-44J type airplanes.

There have been reports of cracks in the nose landing gear toggle pins. Since this deficiency can exist or develop in aircraft of the same type design, an airworthiness directive is being issued which will require a repetitive inspection and replacement, when necessary, of the toggle pins.

The failure of the toggle pins can result in failure and loss of the landing gear.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal aviation regulations is amended by issuing a new Airworthiness Directive as follows:

CANADAIR. Applies to all CL-44D4 and CL-44J airplanes.

Compliance required as indicated:

1. Affects the nose landing gear upper and lower toggle pins P/N 28-86128.

a. Within the next 300 hours' time in service after the effective date of this AD, unless accomplished within the last 450 hours' time in service, remove the upper and lower nose landing gear toggle pins P/N 28-86128 and inspect for cracks emanating from the ends of the slotted hole located at the center of the pins using Magnaflex (MIL-I-6868) or an FAA-approved equivalent inspection.

b. The inspection specified in "a" above shall be repeated at intervals not to exceed 750 hours' time in service from the last inspection.

2. Cracked parts shall be replaced prior to further flight.

a. Replacement parts shall be of the same part number or P/N 28-86128-2 or approved equivalent parts.

3. The inspection specified in (1) is not required if:

a. P/N 28-86128-2 pins are installed or;
b. P/N 28-86128 pins are reworked, in accordance with Canadair Limited Service Information Circular No. 381-CL44 dated

October 23, 1974, to P/N 28-86128-2 configuration.

4. The aircraft may be flown in accordance with FAR 21.197 to a base where the inspections or repairs can be performed.

5. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection intervals specified in this AD. Equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective April 7, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on March 24, 1975.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.75-8498 Filed 4-1-75;8:45 am]

[Docket No. 75-EA-3; Amdt. 39-2149]

PART 39—AIRWORTHINESS DIRECTIVE deHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal aviation regulations so as to issue an airworthiness directive applicable to deHavilland DHC-6 type airplanes.

There has been a report of a loss of aileron control on a DHC-6 airplane caused by an arcing between the cable and an electrical power line. The arcing caused the eventual severing of the aileron cable. Since this deficiency can exist or develop in other airplanes of similar type design, an airworthiness directive is being issued which will require the alteration of a terminal block and routing of the electrical power line.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal aviation regulations is amended by issuing a new Airworthiness Directive, as follows:

DEHAVILLAND. Applies to deHavilland Model DHC-6 Series Twin Otter Aircraft, Serial Nos. 1 through 135 inclusive.

Compliance required as indicated:

To preclude the hazard created by the failure of the right hand aileron control cable through contact with DC electrical power cable coded 2P66AB, accomplish the following:

(a) Within the next 100 hours' time in service after the effective date of this AD, alter the attachment of terminal block TB-17 and the routing of the cable harness to terminal block TB-17 and TB-18 in accordance with deHavilland Service Bulletin No. 6/304, Revision B, dated June 28, 1974, or equivalent alteration approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request with substantiating data submitted through an FAA inspector,

the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective April 7, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on March 24, 1975.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.75-8499 Filed 4-1-75;8:45 am]

[Docket No. 75-SO-57; Amdt. 39-2148]

PART 39—AIRWORTHINESS DIRECTIVES Piper Model PA-28

There have been found unsecured fuel gasolator drain valves on Piper PA-28 airplanes that could result in fuel loss. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection and tightening of the fuel gasolator drain valve on PA-28-140, 150, 151, 160, S-160, 180, S-180, PA-28R-180 and PA-28R-200 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal aviation regulations is amended by adding the following new airworthiness directive:

PIPER AIRCRAFT CORPORATION. Applies to PA-28-140, PA-28-150, PA-28-151, PA-28-160, PA-28-S-160, PA-28-180, PA-28-S-180, airplanes serial numbers 28-03, 28-1 thru 28-7525201; PA-28R-180, PA-28R-200 airplanes serial numbers 28R-30002 thru 28R-7535143; certificated in all categories.

To detect and correct unsecured fuel drain valves installed at the gasolator, accomplish the following or an equivalent method approved by Chief, Engineering and Manufacturing Branch, Southern Region:

(a) Prior to next flight, unless already accomplished, check the fuel gasolator drain valve, (Piper Part No. 492-023) to determine if it is tight in the fitting by attempting to turn the valve counter-clockwise by hand. This check may be performed by the pilot.

1. If the valve is loose, tighten by turning clockwise, check the drain for proper operation and tighten the lock seal nut (Piper Part No. 477-677). If installed, all in accordance with FAR 43.

(b) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished, secure the valve in the gasolator fitting as follows:

1. Remove the fuel gasolator drain valve from the gasolator AN 915-1D fitting, (Piper Part No. 458-948). If installed, NOTE: Do not remove the valve if Loc-tite has been previously applied.

2. Unless already installed, install a lock seal nut (Piper Part No. 477-677). Install with seal toward AN 915-1D fitting.

3. Apply one (1) drop of Loc-tite (88-31) sealant, coating only the 2nd, 3rd, and 4th

threads evenly. NOTE: Do not allow Loc-tite to enter the Fuel System.

4. Install drain valve into AN 915-1D fitting with a minimum of 2½ turns and a maximum of 3½ turns.

5. Secure valve in place with lock seal nut. Piper Service Bulletin 450 pertains to this subject.

The amendment becomes effective April 4, 1975.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia, on March 21, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-8442 Filed 4-1-75;8:45 am]

[Airspace Docket No. 75-SO-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal aviation regulations is to alter the Eglin AFB, Fla., control zone.

The Eglin AFB control zone is described in § 71.181 (40 FR 354). In the description, an extension predicated on the ILS localizer southeast course has a width of 6 miles and extends to 8.5 miles southeast of the LMM. Effective March 27, 1975, the Eglin Low Frequency Nondirectional Radio Beacon, associated with the LMM, will be decommissioned, thus cancelling the NDB RWY 30 Standard Instrument Approach Procedure. It is necessary to amend the description to reduce the control zone extension to provide the required protection for the ILS RWY 30 Standard Instrument Approach Procedure only. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal aviation regulations is amended, effective 0901 G.m.t., March 27, 1975, as hereinafter set forth.

§ 71.171 [Amended]

In § 71.171 (40 FR 354), the Eglin AFB, Fla., control zone is amended as follows:

"* * * within 3 miles each side of the ILS localizer southeast course, extending from the 5-mile radius zone to 8.5 miles southeast of the LMM * * *" is deleted and
"* * * within 1 mile each side of the ILS localizer southeast course, extending from the 5-mile radius zone to 4.5 miles southeast of the runway end * * *" is substituted therefor.

Issued in East Point, Ga., on March 21, 1975.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-8443 Filed 4-1-75;8:45 am]

[Airspace Docket No. 75-80-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On March 12, 1975, Federal Register Document No. 75-6359 was published in the FEDERAL REGISTER (40 FR 11550), amending Part 71 of the Federal aviation regulations by altering the Augusta, Ga., transition area.

Subsequent to publication of the rule, it was discovered that the McDuffie RBN bearing, on which the extension was predicated, was inadvertently omitted. It is necessary to amend the Federal Register document to include this bearing. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, Federal Register Document No. 75-6359 is amended as follows:

In line 13 of the Augusta, Ga., transition area description " * * * McDuffie RBN * * * " is deleted and " * * * 090° bearing from McDuffie RBN * * * " is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on March 21, 1975.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.75-8503 Filed 4-1-75;8:45 am]

[Airspace Docket No. 75-EA-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal aviation regulations so as to alter the Hagerstown, Md., Control Zone (40 FR 387).

The hours of weather observations and reporting and radio communications will be extended from 0600 to 2100 to 0600 to 2230. In view of the foregoing, the hours of effectiveness of the control zone may likewise be extended.

Since the amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal aviation regulations is amended, effective 0901 G.m.t. June 19, 1975, as follows:

Amend § 71.171 of Part 71 of the Federal aviation regulations by deleting in the description of the Hagerstown, Md. Control Zone, the following: "This control zone is effective from 0600 to 2100 hours local time, daily." and by substituting the following in lieu thereof:

"This control zone is effective from 0600 to 2230 hours, local time daily."

(Sec. 307(a), Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348]; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on March 17, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-8502 Filed 4-1-75;8:45 am]

[Airspace Docket No. 74-CE-31]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On pages 4319 and 4320 of the FEDERAL REGISTER dated January 29, 1975, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal aviation regulations so as to alter the transition area at Belleville, Kansas.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., June 19, 1975.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on March 14, 1975.

GEORGE R. LACAILLE,
Acting Director,
Central Region.

In § 71.181 (39 FR 440), the following transition area is amended to read:

BELLEVILLE, KANSAS

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Belleville Municipal Airport (latitude 39°49'00" N., longitude 97°39'00" W.); within 3 miles each side of the 356° bearing from the Belleville Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport.

[FR Doc.75-8500 Filed 4-1-75;8:45 am]

[Airspace Docket No. 75-80-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On February 12, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 6509), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal aviation regulations

that would designate the Mayfield, Ky., transition area.

Interested persons were afforded an opportunity to participate in the rule-making through the submission of comments. There were no comments received.

In consideration of the foregoing, Part 71 of the Federal aviation regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (40 FR 441), the following transition area is added:

MAYFIELD, KY.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mayfield-Graves County Airport (latitude 36°46'03" N., longitude 88°35'05" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on March 25, 1975.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.75-8501 Filed 4-1-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2626]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Fuqua Industries, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; § 13.15-30 Connections or arrangements with others; § 13.50 Dealer or seller assistance; § 13.60 Earnings and profits; § 13.55 Demand, business or other opportunities; § 13.70 Fictitious or misleading guarantees; § 13.85 Government approval, action, connection or standards; § 13.115 Jobs and employment service; § 13.135 Nature of product or service; § 13.143 Opportunities; § 13.155 Prices; § 13.155-5 Additional charges unmentioned; § 13.175 Quality of product or service; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts; § 13.225 Services; § 13.260 Terms and conditions. Subpart—Claiming or using endorsements or testimonials falsely or misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; § 13.330-39 Educators, school authorities, etc. Subpart—Contracting for sale any evidence of indebtedness prior to specified time: § 13.527 Contracting for sale any evidence of indebtedness prior to specified time. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-35 Employment of independent agencies; § 13.533-45 Maintain records; § 13.533-45(a) Ad-

vertising substantiation; § 13.533-45(k) Records, in general; § 13.533-55 Refunds, rebates and/or credits. Subpart—Delaying or withholding corrections, adjustments or action owed; § 13.675 Delaying or withholding corrections, adjustments or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Failing to maintain records; § 13.1051 Failing to maintain records; § 13.1051-20 Adequate. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections; § 13.1395 Connections and arrangements with other; § 13.1417 Financing activities—Goods; § 13.1608 Dealer or seller assistance; § 13.1615 Earnings and profits; § 13.1647 Guarantees; § 13.1670 Jobs and employment; § 13.1685 Nature; § 13.1697 Opportunities in product or service; § 13.1715 Quality; § 13.1725 Refunds; § 13.1760 Terms and conditions; § 13.1760-50 Sales contract.—Prices; § 13.1778 Additional costs unmentioned. Subpart—Neglecting, unfairly or deceptively, to make material disclosure; § 13.1870 Nature; § 13.1882 Prices; § 13.1882-10 Additional prices unmentioned; § 13.1892 Sales contract, right-to-cancel provision; § 13.1892 Scientific or other relevant facts; § 13.1905 Terms and conditions; § 13.1905-50 Sales contract. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal; § 13.1995 Job guarantee and employment; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpretations or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

In the Matter of Fuqua Industries, Inc., a corporation, and Space/Time, Inc., a corporation, and Nationwide Acceptance Corporation, a corporation, Fortune Enterprises, Inc., a corporation, and William L. Phillips, individually and as an officer and director of Fortune Enterprises, Inc.

Consent order requiring an Atlanta, Ga., vocational school operator and franchisor, among other things to refund up to \$1.25 million to eligible former students; and requiring a St. Petersburg, Fla., vocational school operator and franchisor, among other things to disclose designated information such as drop-out rates and positions and salaries received by graduates; to allow enrollees a 10-day period in which to affirm their enrollment contracts, with cancellation of contract and refund of money if there is no affirmation of contract; and to provide prospective franchisees with full particulars on the franchise operation in writing.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:¹

I

It is ordered, That respondents Fortune Enterprises, Inc., a corporation, and

its officers, and William L. Phillips, individually and as an officer or director of Fortune Enterprises, Inc., and those respondents' agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division, franchisee or other device, in connection with the creating, advertising, promoting, offering for sale or distribution of courses of study, training or instruction or of any franchise for any product or service in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing orally, visually, or in writing, directly or by implication, that:

(a) Inquiries are solicited for the purpose of offering employment to qualified applicants; or that employment is being held out or made available in any respect.

(b) Graduates of any course of instruction offered by respondents are not required to actively seek employment opportunities through sources other than respondents' placement office; or misrepresenting in any manner the requirements, duties, obligations or responsibilities imposed upon any person who seeks placement assistance; or misrepresenting in any manner the capabilities or functions of any placement office, referral service or any other type of assistance in obtaining employment for persons completing any said course.

(c) A purchaser will complete any course of instruction offered by respondents within a specified course duration; or misrepresenting orally, visually, or in writing the length of time required to complete any course of instruction offered by respondents.

(d) The placement assistance furnished by respondents is free or without cost; or misrepresenting orally, visually, or in writing, the cost of any placement assistance or service.

(e) The placement assistance furnished by respondents is made available to all graduates of respondents' courses of instruction, unless placement assistance of the same kind and quality is made available to each such graduate; or misrepresenting orally, visually, or in writing, the extent of any placement assistance or service furnished by respondents.

(f) Individualized training or instruction is furnished in any course of instruction offered by respondents; or misrepresenting orally, visually, or in writing the nature or quality of instruction offered by respondents.

(g) Respondents offer a tuition finance plan which allows purchasers of respondents' courses of instruction to "train now, pay later," or words of similar import and meaning, unless in each and every instance respondents offer, in the regular course and conduct of their business, a tuition finance plan which operates to defer all tuition payments until after the scheduled completion of training.

(h) (1) There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for graduates

of any course of instruction offered by respondents.

(2) Or otherwise representing orally, visually, or in writing that opportunities for employment, or opportunities of any type or number are available to such persons, except as hereinafter provided in paragraph 9(b) of this Order. *Provided, however*, That respondents shall cease and desist from making such representations unless the respondents in each and every instance:

(A) Until the passage of a base period to be determined pursuant to paragraph 9(b) of this Order, after the establishment of a new school location by respondents in any metropolitan area or county, whichever is larger, where respondents did not previously operate a school, and after the introduction by respondents of any new course of instruction at any school or location, shall:

(i) have in good faith conducted a statistically valid survey which establishes the validity of any such representation at all times when the representation is made, and

(ii) have disclosed in immediate and conspicuous conjunction with any such representation, that

All representations of potential employment demand or opportunities for graduates of this school (course) are merely estimates. This school (course) has not been in operation long enough to indicate what, if any, actual employment may result upon graduation.

(B) After the passage of a base period to be determined pursuant to paragraph 9(b) of this Order, and until two years after the establishment of a new school location by respondents in any metropolitan area or county, whichever is larger, where it did not previously operate a school, and after the introduction by respondents of any new course of instruction at any school or location, shall:

(i) make any such representations in the form and manner provided in paragraph 9(b) of this Order, and

(ii) disclose in immediate and conspicuous conjunction with any such representation, that:

This school (course) has not been in operation long enough to indicate what, if any, actual employment may result upon graduation.

2. Failing to keep adequate records which may be inspected by Commission staff members upon reasonable notice:

(a) Which disclose facts upon which any placement percentages or claims, or other representations of the type described in paragraphs 1(h) and 9(b) of this Order are based; and

(b) From which the validity of any placement percentages or claims, or other representations of the type described in paragraphs 1(h) and 9(b) of this Order can be determined.

3. Representing orally, visually, or in writing, directly or by implication, that:

(a) Graduates of respondents' course of instruction are hired by certain local business entities, unless in each and every instance such companies are in fact hiring said graduates in substantial

¹ Copies of the Complaint, Decision and Order, filed with the original document.

numbers at the time that the representation is made, and in the positions for which such persons have been trained by respondents.

(b) Graduates of respondents' courses are guaranteed a job through respondents' placement office.

(c) A purchaser of any course of instruction offered by respondents is entitled to receive and will receive a full refund of any monies paid as a "reservation fee" if said person cancels his enrollment prior to the commencement of classes; or representing that any refund method, right or privilege is available to purchasers of respondents' courses of instruction, unless said manner of refund is as represented in an integral provision of the written contract used by respondents to sell their courses of instruction.

(d) Any training facilities operated by respondents have standing contractual agreements with local business entities whereby said entities agree to employ the graduates of said facilities; or misrepresenting orally, visually, or in writing the relationship which exists between any of respondents' training facilities and local business entities.

(e) Respondents will place students in part-time employment positions during the time that such students are enrolled in respondents' courses of instruction; or misrepresenting orally, visually, or in writing that any form of employment, remuneration or tuition assistance is available to purchasers of any course of instruction offered by respondents during the time said purchasers are enrolled in respondents' courses of instruction.

(f) Any course of instruction offered by respondents is approved for veterans' education assistance benefits from the United States Government, unless in every instance, each such course is in fact so approved by the appropriate government agency; or misrepresenting orally, visually, or in writing the approval or other form of government action taken with respect to any course of instruction.

4. Failing to place the title "CONTRACT" in bold face type on any document which evidences an agreement between a person and respondents relating to the purchase of one of respondents' courses of instruction; and failing to remove from any such document the word "application," or words of similar import and meaning.

5. Failing to disclose, clearly and conspicuously, orally, visually, or in writing prior to the time that a prospective purchaser of respondents' courses of instruction signs an enrollment contract or contract of sale for any such course where all the necessary equipment to instruct said course is not contained on the premises of respondents' training facilities, that any particular piece of equipment necessary for instruction is located elsewhere than on the premises of respondents' training facilities and that said purchasers must pay the cost of transportation between said facility and the point where the necessary equipment is located.

6. Failing to offer to refund and refund to purchasers of any course of instruction

offered by respondents, in the event that any said course is discontinued by respondents prior to completion, or in the event that any said course is cancelled by respondents before classes begin, the full amount of all tuition monies paid by any said purchaser to respondents; provided however, That respondents may make available, to any said purchaser, who so selects, a transfer to the same course at a different, specified location where training shall be completed or commenced at no additional cost or change in contractual terms. It is understood and agreed that this Paragraph shall become effective with respect to any course of instruction offered by respondents after the date this Order is formally accepted by the Commission.

7. Representing orally, visually, or in writing, directly or by implication, that any of respondents' company training facilities or franchises have been or are accredited through the use of the name National Career Education Accrediting Association of Washington, D.C., or any abbreviation or seal of same, or any other similar name, or through the use of any name containing the word "Accrediting" or any other similar word, unless the said organization has been recognized by the United States Office of Education as an official accrediting association.

8. Placing any advertisement in any newspaper or magazine column entitled "Help Wanted", "Employment", "Preparing for Employment" or any other title of similar import or meaning, and failing to include in any advertisement, in a clear and conspicuous manner, the full name of any training facility which places or otherwise disseminates said advertisement.

9. Failing to send by certified mail, return receipt requested, to each person who shall contract with respondents for the purchase of any course of instruction, a written notice printed in at least ten (10) point type which shall disclose in substantially the same form as provided in Appendix A the following information and none other:

(a) The title "IMPORTANT INFORMATION" printed in bold face type across the top of the form;

(b) Paragraphs reciting the following information to be computed in the manner and form set forth below for the applicable base period as hereinafter defined in subparagraph (6):

(1) For each different course of instruction offered by respondents for each school, location or facility at which respondents offer said courses of instruction; the dates of the "base period" as computed in (b)(6); the total number of students who graduated during such base period; the numbers and percentages of total graduates who attained employment in the fields for which such graduates were trained. Such information must include an accurate description of each position in which such graduates attained employment.

(2) As to the same graduates used to compute the placement and employment statistics in (b)(1) above, a list of all employers which hired any such graduates

during the base period, the number of such graduates hired by each firm or employer and the positions in which said graduates were hired.

(3) As to the same graduates used to compute the statistics in (b)(1) and (b)(2) above, the annual salary or income of said graduates. Such salary or income shall be classified by number of graduates attaining employment in each position described in (b)(1) at starting salaries expressed in consecutive categories of one thousand dollar amounts, in the form described in Appendix A.

(4) In compiling the foregoing information respondents shall not include any such graduates who respondents know have not retained such positions for more than one month from the initial date of employment. Respondents may use information supplied to them by graduates, employers, or other sources and shall not be required to obtain such information independently.

(5) For each course of instruction for which respondents are required to disclose information pursuant to subparagraphs (b)(1) through (b)(4), the total number of students who enrolled in said course and were scheduled to graduate during the base period and the number and percentage of the enrollees in said course who failed to complete the course of instruction. The term, "failure to complete", shall encompass those enrollees who:

(A) Withdrew;

(B) Failed the course (i.e. were academically terminated);

(C) Did not complete the course within the base period in which they were scheduled to graduate and must take (a) make-up exam(s) in order to graduate;

(D) Completed the course but did not receive a graduation certificate due to their failure to pay the balance of the tuition; or

(E) For any other reason, did not successfully complete the course within the base period in which they were scheduled to graduate.

(6) "Base Period" shall mean a six (6) month period beginning eight (8) months before and ending two (2) months before the date on which respondents must begin to disseminate the necessary statistics with respect to the base period.

There shall be a one month period immediately following the close of a base period during which respondents shall gather the necessary statistics with respect to said base period. These statistics will relate to those graduates who successfully complete the particular course of instruction during the base period and who obtained employment during the base period or the one month period thereafter. Respondents may not include in the computation of the statistics for the base period any persons who graduate during the month after the base period and who find jobs during said one month period. Such persons will be included in statistics for the base period during which they graduate.

At the end of the first month period immediately following the close of a base period, respondents shall be allowed a second one-month period to calculate and prepare for distribution the necessary statistics with respect to said base period.

On the first day of each month, respondents shall begin to distribute statistics relating to the base period for the period beginning eight months before and ending two months before the first day of each month. Respondents shall continue to distribute said statistics until the first day of the next month and not thereafter.

For any six month period during which respondents have no graduates for a particular course of instruction, respondents may continue to distribute the statistics with respect to the prior base period for said course of instruction until such time as respondents have graduates of said course of instruction and have had one month in which to gather statistics with respect to those graduates and a second month during which to calculate and prepare for distribution the necessary statistics.

Appendix B contains a sample base period calculation.

Provided, however, That subparagraph (b) (1) through (b) (6) above shall be inapplicable to any newly established school that respondents may establish in any metropolitan area or county, whichever is larger, where they did not previously operate a school, or to any course newly introduced by respondents, until such time as the new school or course has been in operation for the base period defined in subparagraph (b) (6) above. The following statement shall be included in such notice during such period:

All representations of potential employment or salaries are merely estimates. This school (course) has not been in operation (offered) long enough to indicate what, if any, actual employment or salary may result upon graduation from this school (course).

After such time as the new school or course has been in operation for the base period (subparagraph (b) (6) above), and until two years after the establishment of a new school location in any metropolitan area or county, whichever is larger, where they did not previously operate a school, or after the introduction of any new course by respondents, the following statement shall be included in such notice:

This school (course) has not been in operation (offered) long enough to indicate what, if any, actual employment or salary you may expect to achieve upon graduation from this school (course).

10. Contracting for any sale of any course of instruction in the form of a sales contract or other agreement which shall become binding prior to the purchaser affirming the enrollment contract by signing and returning to respondents the Affirmation Form specified in paragraph 11, within ten (10) days of his receipt of that form. If the purchaser fails to affirm the enrollment contract within the ten (10) day period, respondents

shall consider the contract null and void and within ten (10) business days of the expiration of the affirmation period shall refund all monies paid by the purchaser and cancel and return to the purchaser any evidence of indebtedness.

11. Failing to send by certified mail, return receipt requested, to each person who shall contract with respondents for the purchase of any course of instruction, a one page form, in duplicate that contains the following unsigned Affirmation statement printed in bold face type of at least ten (10) points:

NOTICE TO THE PURCHASER

The enrollment contract that you signed with (name of school) on (date) to enroll in (name of course) is not effective or valid unless you first sign this statement and return it to the above named school within ten (10) days from the time that you received this statement. You are free to cancel your enrollment and receive a full refund of any monies you have paid to the school by not signing or mailing this statement within ten (10) days. At the expiration of this ten (10) day period the school has ten (10) business days to send you your refund (if any) and to cancel and return to you any evidence of indebtedness that you signed. However, if you do want to enroll in the above named school, you should sign your name below and mail this statement to the school within ten (10) days. Keep the duplicate copy for your own records.

_____ Date

_____ Signature

The Affirmation Form shall not contain any information or representation other than the information specified in this paragraph, and the Form shall be mailed in the same envelope that is used to mail placement information as required by Paragraph 9. The Affirmation Form and said placement information shall be sent by respondents no sooner than the next day after the person shall have contracted for the purchase of any course of instruction. During such period provided for in this paragraph, respondents shall not initiate contact with such person other than that required by this paragraph.

12. Making any representation of any kind whatsoever in connection with the creating, advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction in any course offered to the public in any field in commerce, for which respondents have no reasonable basis prior to the making or dissemination thereof.

13. Using course names and descriptions which either directly or by implication indicate that respondents' courses are designed to prepare students for certain entry-level positions when in fact a substantial number of graduates of such courses do not achieve such entry-level positions.

14. Representing orally, visually, or in writing, directly or by implication, that purchasers of franchises will receive advice or assistance for maintaining or operating any business, or will receive a franchise that places its graduates in positions of employment; unless respondents

have a reasonable basis for each such statement or representation and maintain and upon reasonable notice provide access to the Commission or its representatives for purposes of inspection or copying, for a period of three (3) years after each such statement or representation, full, complete and accurate records which will disclose:

(a) The time, frequency and duration of use or publication, and the content of each such statement or representation, and details as to the media or other means utilized in its dissemination or publication, and

(b) A factual, documented and verifiable basis for substantiation of each such statement or representation. *Provided further,* That with respect to any statement or representation as to placement or employment, such substantiation shall include a list of firms or employers which are currently hiring graduates of such courses in substantial numbers and in the positions for which such graduates have been trained, and the salary range of such graduates, computed in the manner provided in Paragraph 9 above.

15. Failing to furnish any prospective franchisee with the following information in a legible, written document, at the earlier of the time (1) when the first personal meeting for the purpose of discussing the possible sale of a franchise occurs between prospective franchisee and the franchisor or its sales representative; or (2) at least fifteen (15) business days prior to the execution by the prospective franchisee of any franchise agreement or any other binding obligation, or the payment by the prospective franchisee of any consideration in connection with the sale or proposed sale of a franchise:

(a) A distinctive and conspicuous cover sheet with the following notice in bold face type of not less than ten (10) point size, and containing no other promotional claims or other information not required by State law:

(1) Information for prospective franchisees required by Federal Trade Commission.

This information is provided for your own protection. It is in your best interest to study it carefully before making any commitment. The information contained herein has not been reviewed or approved by the Federal Trade Commission, but any misrepresentation may constitute a violation of Federal law.

(2) If you do sign a contract, you may cancel it and promptly obtain a full refund of any money paid, for any reason, within ten (10) business days after either signing such contract or receiving this disclosure statement, whichever occurs later.

(b) A detachable form which a franchisee may use as a notice of cancellation, which indicates the proper address of accomplishing any such cancellation.

(c) (1) The trade name(s) or trademark(s) under which the franchisor and the prospective franchisee will be doing business; (2) the official name(s) and address(es) and principal place(s) of the franchisor, the parent firm or holding company of franchisor, if any; and (3) all persons the franchisee is required or is suggested to do business with by the franchisor which have a substantial connection with the franchisor.

(d) The business experience stated individually of each of the franchisor's directors and chief executive officers including the biographical data concerning all such persons; except, however, that the information required by this subparagraph need not be disclosed where the franchisor is a listed company on a national stock exchange, although such fact shall be disclosed.

(e) The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

(f) A certified balance sheet for the most recent year, a certified profit and loss statement for the most recent three (3) year period, and a statement of any material changes in the financial soundness of the franchisor since the date of such financial statements.

(g) Where such is the case, a statement that the franchisor or any of its current directors or chief executive officers:

(1) Has been held liable in a civil action by final judgment, convicted of a felony or plead nolo contendere to a felony charge if such felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property for the most recent seven (7) year period.

(2) Is subject to any currently effective State or federal agency injunctive or restrictive order relating to or affecting franchise activities or the franchisor/franchisee relationship.

(3) Has filed in bankruptcy or has been associated as a director or chief executive officer of any company that has filed bankruptcy or reorganization proceedings for the most recent seven (7) year period.

(4) Has been a party to any cause of action brought by franchisees against the franchisor for the most recent seven (7) year period which resulted either in an out of court settlement or a judgment against the franchisor.

(5) Is presently a party to any cause of action brought by a franchisee against the franchisor.

Such statement shall set forth the identity and location of the court, date of conviction or judgment, and penalty imposed or damages assessed, and the date, nature, and issuer of each such order or ruling.

(h) A factual description of the franchise offered to be sold.

(i) (1) A statement of the total funds which must be paid by the franchisee to the franchisor or to a person having a substantial connection with the franchisor, in order to obtain or commence the franchise operation, such as deposits, downpayments and fees.

(2) If all or part of these fees or deposits are returnable under certain conditions, these conditions should be set forth; and if not returnable such fact so disclosed.

(j) A statement describing the recurring fees required to be paid, in connection with carrying on the franchise business, by the franchisee to the franchisor or to persons having a substantial connection with the franchisor, including but not limited to royalty, lease, advertising, training, and sign rental fees.

(k) A statement disclosing (1) the number of franchises and company-owned outlets operating at the end of the last calendar year, and (2) the names and addresses of the ten (10) franchises or company-owned outlets nearest the prospective franchisee's intended location, indicating which units are company-owned outlets.

(l) A statement of the number of franchises, if any, that operated at a loss during the previous year.

(m) A statement describing any real estate, services, supplies, products, signs, fixtures or equipment relating to the establishment or the operation of the franchise business which the franchisee is required to purchase, lease or rent directly or indirectly from the franchisor or persons having substantial connection with the franchisor.

(n) A description of the basis and the amount of any revenue or other consideration to be received by the franchisor, or persons having a substantial connection with the franchisor, from suppliers to the prospective franchisee in consideration for goods or services required or suggested to be purchased by the franchisee.

(o) (1) A statement of the terms and conditions of any financing arrangement offered directly or indirectly by the franchisor or any person having a substantial connection with the franchisor, and

(2) A description of any payments received by the franchisor from any person for the placement of financing with such person.

(p) A statement whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services he may offer for sale, or limited in the customers to whom he may sell such goods or services.

(q) A statement of the extent to which the franchisor requires the franchisee to participate personally in the direct operation of the franchise.

(r) A statement disclosing: (1) The conditions and terms under which the franchisor allows the franchisee to sell, lease, assign, or otherwise transfer his franchise, or any interest therein, and

(2) the amount of consideration which must be paid to the franchisor for such sale, lease, assignment or transfer, if any.

(s) A statement disclosing: (1) The conditions under which the franchise agreement may be terminated by the franchisor, renewal may be refused, or the franchise may be repurchased by the franchisor at its option;

(2) the number, stated for each category, or franchises which were terminated, renewal refused or repurchased during the preceding calendar year and a complete explanation thereof; and

(3) the conditions under which the franchise agreement may be terminated

by the franchisee and the number of franchises voluntarily terminated by franchisees during the preceding calendar year.

(t) If site selection is involved, a statement disclosing the range of time that has elapsed in the preceding calendar year, between signing of a franchise agreement and site selection. If, in addition, operating units are to be provided, a statement disclosing the range of time that has elapsed in the preceding calendar year between the signing of the franchise agreement and opening of the franchise outlet.

(u) If the franchisor offers a training program or informs the prospective franchisee that it intends to provide him with training; the franchisor must specify the specific type and nature of the training, the number of hours or days of instruction, and the cost to the franchisee, if any.

(v) If a franchisor uses the name of a "public figure" in connection with the recommendation of the franchise or as a part of the name of the franchise operation, a statement disclosing: (1) The nature and extent of the public figure's involvement and obligations to the franchisor, including but not limited to the promotional assistance the public figure will provide to the franchisor and to the franchisee; (2) the total investment of the public figure in the franchise operation; and (3) the amount of any fees the franchisee will be obligated to pay for such involvement and assistance provided by the public figure.

(w) A statement explaining clearly the terms and conditions of any covenant not to compete which a franchisee may be required to enter into.

16. It is further ordered, That in addition to the information required by Paragraph 15 above, respondents Fortune Enterprises, Inc. and William L. Phillips, in connection with the creating, advertising, promoting, offering for sale or distribution of franchises for courses of study, training, or instruction, shall disclose to any such prospective franchisee in the same manner and form as prescribed in Paragraph 15 above:

(a) The placement percentage for graduates as computed in the following manner: Separately for each course of instruction offered by each of the said franchises at which franchisees conduct business or offer any course of instruction, and during the six month period immediately preceding such computation, the total number of graduates during said period divided into the total number of such graduates who during said period, within the actual knowledge of such school, location or facility, attained employment in the entry-level positions for which said graduates were trained.

(b) The percentage of enrollees, during the past six months, separately for each course of instruction offered by each of the said franchises, who have failed to complete their courses of instructions.

(c) A list of firms or employers which are currently hiring graduates of respondents' courses in substantial numbers and in the positions for which such graduates have been trained, as to the same graduates used to compute the placement percentage in (a) above.

(d) The salary range achieved by the same graduates used to compute the placement percentage in (a) above, based upon a statistically valid survey conducted in good faith at each location or facility where franchises offer training.

17. *It is further ordered*, That respondents Fortune Enterprises, Inc. and William L. Phillips shall not:

(a) Make any oral or written representation of a prospective franchisee's potential sales, income, gross or net profit unless:

(1) Such sales, income or profits are reasonably likely to be achieved by the person to whom the representation is made;

(2) The basis and assumptions for such representation are set forth in detail;

(3) Such representation and the underlying data have been prepared in accordance with generally accepted accounting principles;

(4) In immediate conjunction therewith, the following statement is clearly and conspicuously disclosed: "There is no assurance that income and profit projections will be attained by any specific franchisee. They are merely estimates."; and

(5) The amounts represented are not in excess of sales, income or profits actually achieved by existing franchisees. If franchisees have not been in operation long enough to indicate what sales, income or profits may result, then representations of such to a prospective franchisee are prohibited.

(b) Make any claim with respect to past or potential sales, profits, or earnings in any advertising, promotional material, or disclosure statement, or in any oral sales presentation, or discussion between a franchisor's representatives and prospective franchisees, for which the franchisor does not have substantiation in its possession, which substantiation shall be made available to prospective franchisees or the Commission or its staff upon demand.

(c) Make any claim or representation in advertising or promotional material, or in any oral sales presentation, solicitation or discussion between a franchisor's representatives and prospective franchisees, which is inconsistent with the information required to be disclosed by this Order.

(d) Fail to furnish the prospective franchisee with a copy of the completed franchise agreement which shall not become binding prior to the end of the tenth (10th) day after the date of receipt by the customer of the form of notice provided for in paragraph 15 of this Order.

(e) Fail to orally explain to the prospective franchisee, before an agreement

is consummated, the cancellation procedure provided in this Order, namely that any contract or other agreement may be cancelled for any reason within ten (10) business days after the contract becomes legally binding on both parties or after the franchisee receives this disclosure statement, whichever occurs later.

(f) Fail to return the funds or deposits in accordance with subparagraph 15(1) of this Order.

18. For the purpose of this Order, the term "in connection with the creating, advertising, promoting, offering for sale or distribution" of any franchise for any product or service shall not include a relationship between respondents and any natural person, partnership, corporation, group, association, or any other business entity involving the mere investment of money.

19. For the purpose of this Order, the term "franchise" shall incorporate by reference the first alternative definition of "franchise" contained in the Federal Trade Commission's revised Proposed Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising published at 39 FR 30362.

20. *It is further ordered*, That in the event the Federal Trade Commission promulgates a final Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising, then such Trade Regulation Rule shall completely supersede and replace all franchise provisions contained in this Order, except paragraphs 14, 16, 18 and subparagraphs 15(a)(2), 15(b), 15(1), 17(d) and 17(e), and such Trade Regulation Rule shall become a part of this Order.

II

1. *It is further ordered*, That Fortune Enterprises, Inc. and William L. Phillips:

(a) Deliver a copy of this Order by hand or by certified mail to each of their present and future franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors or to any other person or entity which promotes, offers for sale, sells or distributes any course of instruction offered by respondents; *provided however*, with respect to any other franchise for any other product or service, respondents shall deliver to such persons described above a copy of those paragraphs in Part I of this Order applicable to franchising such other products or services and Part II;

(b) Provide each person or entity described in subparagraph (a) above with a form returnable to the respondents clearly stating his (its) intention to be bound by and to conform his (its) business practices to the requirements of this Order; retain said statement during the period said person or entity is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request;

(c) Inform each person or entity described in subparagraph (a) above that the respondents will not use or engage or will terminate the use or engagement of any such person or entity, unless such person or entity agrees to and does file

notice with the respondents that he (it) will be bound by the provisions contained in this Order;

(d) Shall not, if such person or entity as described in subparagraph (a) above will not agree to so file the notice set forth in subparagraph (b) above with the respondents and be bound by the provisions of the Order, use or engage or continue the use or engagement of such person or entity to promote, offer for sale, sell or distribute any course of instruction or franchise included in this Order;

(e) Inform each person or entity described in subparagraph (a) above that the respondents are obligated by this Order to discontinue dealing with or to terminate the use or engagement of persons or entities who continue on their own the deceptive acts or practices prohibited by this Order;

(f) Institute a program of continuing surveillance adequate to reveal whether the business practices of each said person or entity described in subparagraph (a) above conform to the requirements of this Order;

(g) Discontinue dealing with or terminate the use or engagement of any person or entity described in subparagraph (a) above, as revealed by the aforesaid program of surveillance, who continues on his (its) own any act or practice prohibited by this Order.

2. *It is further ordered*, That respondents Fortune Enterprises, Inc. and William L. Phillips shall forthwith distribute a copy of this Order to each of their operating divisions which promotes, offers for sale, sells or distributes any course of instruction or franchise offered by respondents.

3. *It is further ordered*, That respondents Fortune Enterprises, Inc. and William L. Phillips shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in respondents which may affect compliance obligations arising out of this Order.

4. *It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

III

1. *It is further ordered*, That respondents Fuqua Industries, Inc. ("Fuqua") and William L. Phillips ("Phillips") shall each within sixty (60) days from the effective date of this Order, compile a list from Career Enterprises, Inc. ("Career") records in their respective possession, custody or control, or any other records in their respective possession, custody, or control, of the last known names and addresses of all persons who purchased a Career course of instruction in a company-owned or franchise school of Career

and who first paid monies to Career from January 1, 1969 to July 17, 1972, including the names and addresses of the purchasers' nearest relative(s) or others whose addresses appear on any document relating to said purchaser, supplemented by a list of the same category of persons identified by the Commission and transmitted to said respondents within one hundred five (105) days after the effective date of this Order.

2. *It is further ordered.* That respondents Fuqua and Phillips shall jointly, within sixty (60) days from the effective date of this Order, employ an independent contractor acceptable to the Commission, and give to the independent contractor, within one hundred ten (110) days from the effective date of this Order, the lists of names and addresses of persons referred to in paragraph 1 above. Said independent contractor shall review the lists, strike out any duplication of names and addresses of persons who purchased a Career course of instruction, and shall prepare a final list of all persons to receive Appendices C and D. Said independent contractor shall make an inquiry in writing on the one hundred fiftieth (150th) day after the effective date of this Order, to all persons whose names and addresses appear on the final list, in the language, manner and form shown in Appendices C and D, by first class mail and with a self-addressed postage prepaid envelope. With respect to all persons whose first mailed inquiry is returned unopened said independent contractor shall have a duty, commencing within three (3) business days after such mailed inquiry is returned unopened, to attempt to establish contact with persons referred to above by requesting by mail new addresses from the students' nearest relative(s) or others whose addresses appear on any document supplied to the independent contractor through which a student may be located.

3. *It is further ordered.* That (a) at the expiration of ninety (90) days after the independent contractor first mails Appendices C and D to persons on the final list referred to in paragraph 2 above, the independent contractor shall transmit the Appendix D responses it has received by such date to respondents Fuqua and Phillips, and (b) respondents' obligation to make restitution shall extend only to such persons (i) whose names appear on the final list referred to in Paragraph 2 above and (ii) whose Appendix D responses have been received by the independent contractor at or before the expiration of said ninety (90) day period.

4. *It is further ordered.* That, within one hundred fifty (150) days after the independent contractor first mails Appendices C and D to persons on the final list referred to in paragraph 2 above, respondents Fuqua and Phillips shall refund to purchasers of Career courses of instruction whose names appear on the Appendix D responses transmitted by the independent contractor pursuant to paragraph 3 above, less any prior refunds, seventy-five percent (75 percent) per person, of the total amount of monies

paid by such persons to Career, or paid or owed by such persons to any third party financial institution or individual by virtue of the third party's purchase of a contractual debt owed by such persons to Career with respect to such enrollment or instruction; provided, however, that this Order provision shall not apply to any such person who paid less than one hundred dollars and one cent (\$100.01) with respect to enrollment or instruction in a Career course, or who attained an employment position as a result of or substantially related to the training received in the course of instruction purchased from or arranged by Career, or who, for reasons unrelated to the training or job demand, elected not to seek such employment, or who made a deposit but did not show up for classes, or who enrolled in a class and dropped out for reasons unrelated to the course of instruction or job demand, and *provided further*, That respondents' obligation to make refunds of any nature whatsoever under this Order provision and as contemplated by the Complaint herein shall expire in all respects at the end of two hundred ten (210) days after the date on which the independent contractor first mails inquiries to purchasers of Career courses of instruction. It is understood and agreed and adopted as part of this Order that respondents' liability for restitution shall not exceed one million two hundred fifty thousand dollars (\$1,250,000); and in the event that this sum is not adequate to provide a refund of seventy-five percent (75%) of the total monies paid by persons eligible to receive a refund as set forth in this paragraph, then a proportionate percentage of the 75 percent refund due shall be paid to those persons eligible until the \$1,250,000 has been exhausted. Respondents Fuqua and Phillips shall bear equally the expense of making the restitution payments referred to in this Paragraph, *provided*, That in the event the total amount of restitution payments exceeds one million dollars (\$1,000,000), Fuqua shall bear the expense of making restitution payments in excess of one million dollars (\$1,000,000), up to one million two hundred fifty thousand dollars (\$1,250,000). In no event shall the total amount of Fuqua's liability to make restitution exceed one-half of restitution payments, up to and including one million dollars (\$1,000,000), or, in the event the restitution payments required by this Order exceed one million dollars (\$1,000,000), said one-half share, plus the amount of any required restitution payments over one million dollars (\$1,000,000), up to one million two hundred fifty thousand dollars (\$1,250,000), for a total maximum Fuqua liability of seven hundred fifty thousand dollars (\$750,000). In no event shall the total amount of Phillips' liability to make restitution payments exceed five hundred thousand dollars (\$500,000) or one-half of the restitution payments up to one million dollars (\$1,000,000), whichever is less. It is further ordered that respondents Fuqua and Phillips' liability for restitution arising out of any of the acts or practices of Career does

not and shall not extend to any other period of time or class of claimant other than as provided in this Order.

5. *It is further ordered.* That if an independent contractor acceptable to the Commission is not employed by respondents Fuqua and Phillips within sixty (60) days from the effective date of this Order, then: (i) Said independent contractor shall have ninety (90) days from the time of his employment to prepare the final list and to make the inquiry in writing referred to in Paragraph 2 above, and (ii) said respondents' liability to make refunds shall not expire until two hundred ten (210) days after the date on which the independent contractor first mails inquiries to purchasers of Career courses of instruction.

6. *It is further ordered.* That respondents Fuqua and Phillips shall maintain adequate records for two (2) years after the effective date of this Order, same to be furnished upon request by the Federal Trade Commission, which disclose the dates and manner in which persons were contacted and responded pursuant to the above procedures including all documents received from such persons.

7. *It is further ordered.* That the respondents Fuqua Industries, Inc., Fortune Enterprises, Inc., and William L. Phillips shall notify the Commission at least thirty (30) days prior to any proposed change in the respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in respondents which may affect compliance obligations arising out of this Order.

8. *It is further ordered.* That each respondent herein shall, within sixty (60) days after service upon it of this Order, file with the Commission a report in writing setting forth the manner and form in which each has complied with this Order, and shall, within two hundred seventy (270) days after the independent contractor first mails the inquiries referred to in paragraph 2 above, file with the Commission a report in writing setting forth the manner and form in which each has complied with Part III of this Order.

APPENDIX A

IMPORTANT INFORMATION

Regarding Students of Career Training Institute of New York, New York.

Course: Key Punch Operator.

Base Period: January 1, 1974 through June 30, 1974.

Information regarding post-graduate employment of graduates:

	Number	Percent
Total graduates.....	80	100
Total graduates obtaining employment as keypunch operators.....	16	20

¹ The examples in this Appendix are for illustration and are not based on actual statistics.

Employers hiring persons who graduated from career training institute of New York, New York, from January 1, 1974 through June 30, 1974:

As Key punch Operators	Total Hired
ABC Company.....	4
D Company.....	4
H Company.....	4
L Company.....	4

Salary information regarding persons who graduated from Career Training Institute of New York, New York, from January 1, 1974 through June 30, 1974:

As Key punch Operators:

- 4 Graduate(s) began at a salary between \$5,000 and 5,999
- 6 Graduate(s) began at a salary between \$6,000 and 6,999
- 6 Graduate(s) began at a salary between \$7,000 and 7,999

Information regarding total number and percentage who failed to complete this course:

	Percent
Total number of students enrolled in this course and scheduled to graduate from January 1, 1974 through June 30, 1974.....	240
Total number who failed to complete this course.....	160
Total percentage who failed to complete this course.....	66

APPENDIX B

Base Period 1 begins January 1, 1974 and ends June 30, 1974.

During July, respondents shall gather the statistics with respect to Base Period 1. These statistics shall include the required information regarding jobs obtained by the January-June graduates from January 1 through July 31. These statistics may not include any persons who graduate during July and who obtain employment before July 31. Those persons will be included in the statistics for Base Period 2. During August respondents shall calculate and prepare the Base Period 1 statistics for distribution.

On September 1, respondents shall begin to disseminate statistics with respect to graduates for the period January 1 through June 30, and respondents shall continue to use those statistics through September 30.

During August, respondents shall gather the statistics with respect to Base Period 2, which begins February 1, 1974, and ends July 31, 1974. These statistics shall include the required information regarding jobs obtained by the February-July graduates from February through August 31. During September, respondents shall calculate and prepare for distribution the necessary statistics.

Beginning October 1, respondents shall disseminate the necessary statistics for Base Period 2 and shall be prohibited from disseminating previous base period statistics.

APPENDIX C

IMPORTANT NOTICE

To: (Name of Addressee).

Subject: Your attendance at (Name of School and City), a Career Enterprises, Inc. school.

By an order of the United States Federal Trade Commission entered on (date of order), we have been directed to determine from you certain facts concerning your relationship with the above Career school. The Commission has determined that the collection of this information is required under the Federal Trade Commission Act to properly implement a Commission order that requires the undersigned individual and Fuqua Industries, Inc. to meet certain obligations with respect to former enrollees of this school. It is important, therefore, that you provide us with your response to the en-

closed questionnaire as soon as possible so that we may comply with the Commission's order.

Please mark or fill-in the appropriate spaces on the enclosed statement and return it by the self-addressed, stamped envelope within seven (7) days to:

[Independent Contractor]

[Name and Address]

[Telephone No.]

If you have any questions regarding this letter, please contact the above company.

Your cooperation in this matter will be appreciated.

WILLIAM L. PHILLIPS,
Former Chairman of the Board
of Career Enterprises, Inc.

APPENDIX D

Subject: Your attendance at (Name of School and City), a Career Enterprises, Inc. school.

1. Is your present address correctly shown on the envelope? Yes () No (). If no, what is your address?

2. On what date did you enroll in the above Career school? Month Year

3. What is the total amount of money you paid for your course at the above Career school? In computing this amount, include both the amount you paid directly to the Career school, and the amount, if any, paid for such course to Career by any financial institution or individual who informed you that your debt obligation had been transferred from the Career school to such financial institution or individual and that, therefore, in the future you would not make payments on your tuition to the Career school, but would make such payments to the financial institution or individual who informed you of this new arrangement. (Total amount \$.....)

4. What is the name and address of this financial institution or individual?

5. What is the name of the course you signed up for?

6. Did you attend any classes? Yes () No ().

7. Did you complete the course? Yes () No ().

8. If the answer to question number 7 is no, set forth reason.

9. Did you receive any refund of any tuition money paid to the above Career school? Yes () No (). (If the answer to question number 9 is yes, please answer question number 10).

10. What is the total amount of such refunds received by you? (Total amount \$.....)

11. Did you ever attain any employment positions as a result of, or substantially relating to, the training you received from the Career school? Yes () No ().

12. If no, why not?

13. Please attach to this form any documents or copies of such documents that indicate you paid an amount of money for any course of instruction offered by the Career school.

This form should be signed and mailed, in the enclosed self-addressed postage paid envelope.

I hereby certify that the above answers are true and correct to the best of my knowledge and belief.

(Date)

(Social Security No.)

(Signature)

(Print Name Here)

(Home Address)

(Home Telephone No.)

(Employer)

(Employer's Address)

(Employer's Telephone No.)

The Decision and Order was issued by the Commission January 21, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-8438 Filed 4-1-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority

Pursuant to authority set forth in section 19 of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, Section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940, and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends 17 CFR Part 200 as follows:

Section 200.30-4 is amended by revising paragraph (a) (2) and adding new paragraphs (a) (3) and (4):

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

(a) * * *

(2) In nonpublic investigatory proceedings within the responsibility of the Director, to grant requests of persons to procure copies of the transcript of their testimony given pursuant to Rule 6 of the Commission's Rules Relating to Investigations as in effect subsequent to November 16, 1972 (17 CFR 203.6).

(3) To terminate and close all investigations authorized by the Commission pursuant to section 20 of the Securities Act of 1933 (15 U.S.C. 77t), section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u), section 18 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r), section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) and section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9).

(4) To terminate the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange

Act of 1934 (15 U.S.C. 78u(b)), section 18(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r(c)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

(Sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat. 972 (15 U.S.C. 78d(b)); sec. 1, 76 Stat. 394 (15 U.S.C. 78d-1); sec. 19, 209, 48 Stat. 85, 908 (15 U.S.C. 77s); sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379 (15 U.S.C. 78w(a)); sec. 20, 49 Stat. 833 (15 U.S.C. 79t); sec. 319, 53 Stat. 1173 (15 U.S.C. 77 sss); sec. 38, 54 Stat. 841 (15 U.S.C. 80a-37); sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888 (15 U.S.C. 80b-11))

The Commission finds that the foregoing amendments relate solely to rules and regulations of agency organization, procedure and practice, and therefore the provisions of 5 U.S.C. 553 relating to notice and procedures are not applicable. The foregoing amendments became effective December 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 18, 1974.

[FR Doc.75-8511 Filed 4-1-75; 8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER II—TENNESSEE VALLEY AUTHORITY

PART 301—PROCEDURES

Fees for Search and Duplication of Records

On pages 7684-7685 of the FEDERAL REGISTER of Friday, February 21, 1975, there was published a notice of proposed rulemaking to amend 18 CFR Part 301 by adding a new § 301.2. Pursuant to the Freedom of Information Act (5 U.S.C. § 552), as amended, the new section provides for a uniform fee schedule for search and duplication of TVA records limited to reasonable standard charges to recover the direct costs of such search and duplication. The new section also provides for waiver and reduction of fees in certain circumstances, as set out in paragraph (c).

The charges for files search and duplication are for clerical time only, and no charge will be made for supervisory time. As stated in the notice of proposed rulemaking, if it develops that significant amounts of supervisory time are being required in the search and duplication process, the regulations may be amended to provide for charges therefor.

Opportunity for comment on or objection to the proposed regulation was given. No comments or objections have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This new section is effective on April 2, 1975.

By Direction of the Board of Directors.

Dated: March 26, 1975.

LYNN SEEGER,
General Manager.

Part 301 of Title 18 is amended by adding the following new section.

§ 301.2 Schedule of fees.

(a) **Basis.** Except as otherwise provided in subsection (c) of this section, TVA records which are available for public inspection under § 301.1 are made available upon payment of uniform fees which will approximately cover the direct costs to TVA of searching for, compiling, transporting, and copying the records.

(b) **Fees.** The following fees are applicable:

(1) **Time charges.** For time spent searching files, compiling requested material from files, and making any requested copies the charge is \$4.15 per hour.

(2) **Duplication charges.** For reproduction of requested material which consists of sheets no larger than 8½ by 14 inches, the charge is ten cents per page. For reproduction of other materials, the charge is the direct cost of photostat or other means necessarily used for duplication.

(3) **Other charges.** Where a response to a request requires services or materials (including personnel) other than the common ones described in paragraphs (1) and (2) of this section, the charge is the direct cost of such services and materials to TVA, but only if the requester has been notified of such cost before it is incurred, or if the request contains a statement that all costs are acceptable.

(c) **Waiver or reduction of fees.** (1) No time charge is made with respect to any request for records requiring less than four (4) hours' time for searching and reproducing documents.

(2) If it is determined by TVA that all material requested is exempt from disclosure under § 301.1 of this part, and TVA accordingly declines to furnish all such material, no fees shall be charged. TVA may waive or reduce fees otherwise chargeable under this section upon its determination that waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

[18 U.S.C. 831-831dd]

[FR Doc.75-8441 Filed 4-1-75; 8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 75-78]

PART 22—DRAWBACK

Drawback Statements From Manufacturers or Producers

Section 22.20a of the Customs Regulations (19 CFR 22.20a) provides that a claimant for drawback whom the regional commissioner of Customs determines not delinquent or otherwise remiss in transactions with Customs is eligible for accelerated payment of drawback claims which are properly prepared and fully completed. A claimant requesting accelerated payment of a drawback claim

must submit with the claim a computation of the amount due. He must also file with Customs, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611 guaranteeing the refund of any excess payment. If, after receiving such a claim, the regional commissioner determines that the conditions for accelerated payment are met and that the claim appears reasonable in amount, he shall certify for payment 90 percent of the claim as computed by the claimant. It has been determined that increasing the amount of accelerated payment from 90 percent to 100 percent would be beneficial to the exporting claimants. Furthermore, in view of the bond guaranteeing the refund of any excess payments, any danger to the revenue would be eliminated.

Accordingly, the third and fourth sentences of § 22.20a of the Customs Regulations (19 CFR 22.20a), are amended as set forth below:

§ 22.20a Accelerated payment of drawback claims.

*** If the regional commissioner, after receiving a claim, determines that the conditions for accelerated payment are met and that the claim appears reasonable in amount, he shall, within 3 weeks after the claim is filed, certify it for payment. After liquidation, any amount found to be due will be paid or a demand for refund of any excess payment paid will be made. ***

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Inasmuch as this amendment merely relaxes present requirements and requires no public initiative, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment will be effective on April 2, 1975.

[SEAL] VERNON D. ACREE,
Commissioner of Customs,

Approved: March 20, 1975.

DAVID R. MACDONALD,
Assistant Secretary
of the Treasury.

[FR Doc.75-8524 Filed 4-1-75; 8:45 am]

[T.D. 75-77]

PART 113—CUSTOMS BONDS Customs Bonds

Treasury Decision 74-227, which was published in the FEDERAL REGISTER on September 4, 1974 (39 FR 32013), revised and replaced Part 25 of the Customs Regulations with a new part, designated Part 113, "Customs Bonds". This revision was part of the overall revision of the Customs Regulations which includes a rearrangement of the sequence of parts in Chapter I, title 19, of the Code of Federal Regulations.

Implementing the United States Customs Service's Automated Bond Information System (ABIS), which was established in 1973, § 113.26(a) of the

Customs Regulations requires that each bond on Customs Forms 7553, 7563-A, 7569, 7595, and 7599, must be accompanied by a completed Bond Transcript on Customs Form 53, in triplicate, and that the bond and bond transcript must be filed with the district director at least 60 days before the bond's effective date. In order to accommodate importers who urgently needed to use the Immediate Delivery and Consumption Entry Term Bond (Customs Form 7553) but who had not previously obtained such a bond and were therefore unable to effect coverage without a delay of 60 days, § 113.26(a) provides an exception to the 60-day advance filing requirement in the case of importers who had not previously obtained a consumption entry term bond. As a result of this exception, a bond on Customs Form 7553 and the related bond transcript may be accepted from an importer who has not previously had such a bond on, or at any time before, the effective date of the bond.

Additional experience with the ABIS program has shown that the 60-day advance filing requirement may be dispensed with in the case of importers who have previously had a consumption entry term bond without adversely affecting the program. Accordingly, it is considered desirable to amend the Customs Regulations to eliminate in all cases the 60-day advance filing requirement for a consumption entry term bond filed on Customs Form 7553 and the accompanying bond transcript.

Accordingly, the second sentence of paragraph (a) of § 113.26 (19 CFR 113.26 (a)) is amended to read as follows:

§ 113.26 Bond transcript for certain term bonds.

(a) * * * The bond and bond transcript shall be furnished at least 60 days before the date on which the bond shows it is to become effective, except that a bond on Customs Form 7553 and the related bond transcript may be accepted on or at any time before, the effective date of the bond. * * *

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

Because this amendment merely relaxes a present requirement and requires no public initiative, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall become effective on April 2, 1975.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: March 21, 1975.

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc. 75-8525 Filed 4-1-75; 8:45 am]

Title 20—Employees' Benefits
CHAPTER I—OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR

EMPLOYEES' BENEFITS

Claims for Compensation Under the Federal Employees' Compensation Act

Correction

In FR Doc. 75-4173 appearing at page 6876 in the issue for Friday, February 14, 1975, the following corrections should be made:

1. On page 6880 in § 10.100(b) in the 3rd column, the 8th line beginning, " * * * ment related occupational disease or * * * ", should be deleted; and " * * * give written notice of such disease or * * * " should be inserted.

2. On page 6883 in the 1st column, in § 10.123, the 2nd sentence, the word "beaen" should be corrected to read "been".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER J—RADIOLOGICAL HEALTH

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

Microwave Ovens

The Commissioner of Food and Drugs is amending the performance standard for microwave ovens in § 1030.10 (21 CFR 1030.10) by adding requirements that specific safety instructions be included in user and service manuals, and that all microwave ovens, to which the standard is applicable, bear certain specified warning labels, effective October 3, 1975.

In a notice of proposed rule making published in the FEDERAL REGISTER of May 30, 1974 (39 FR 18797), interested persons were given until July 29, 1974, to file written comments with the Hearing Clerk, Food and Drug Administration, regarding the proposal. Eighty-one letters were received, 64 of which were from consumers and consumer associations, six from manufacturers, four from health care facilities, and seven from various other organizations. Twenty-two letters generally supported all or part of the proposal. Twenty-four letters indicated no general approval or disapproval, while the remaining 35 letters expressed significant opposition. A number of the comments did not relate to the proposed amendment but rather to the microwave oven standard in general.

1. Thirty-one comments stated that the proposed amendment is unnecessary since microwave ovens are extremely safe home appliances. These comments expressed the view that the proposed warning label would be a sales deterrent and would add considerable, unnecessary cost to the purchase price of microwave ovens.

The Commissioner concludes that although microwave ovens have had a good safety record, it is prudent to take preventive action, when indicated, before there are documented incidents of injury. The proposed warning label is considered necessary to insure that consumers receive the most important precautions related to microwave oven use. There has been no evidence provided to support the claim that the proposed amendment would be a sales deterrent or would add considerable cost to the purchase price of microwave ovens. A detailed analysis of the possible economic consequences of the amendment is presented in the environmental assessment report concerning this action. A conclusion of this report is that the costs of compliance with the amendment should be minimal, but potential benefits to the public health are expected to be considerable. A copy of this report is on file in the office of the Hearing Clerk.

2. Fourteen comments urged adoption of all or part of the Consumers Union petition published in the FEDERAL REGISTER of September 13, 1973 (38 FR 25462), or offered recommendations in addition to, or in place of, the proposed amendment.

The preamble to the notice of proposed rule making contained the evaluation and conclusions of the Food and Drug Administration with respect to the petition of Consumers Union of the United States, Inc. As stated, the preamble to the notice of proposed rule making represented the final action of the Food and Drug Administration with respect to the petition. No new significant information or data have been presented to alter this action.

3. One comment suggested that the proposed warning labels be made available to owners of older microwave ovens.

Section 358(c) of the Radiation Control for Health and Safety Act of 1968, does not allow the amendment to apply to microwave ovens manufactured before promulgation of the amendment. However, the information contained in the proposed warning labels is included in consumer literature available from the Food and Drug Administration. Copies of this material may be obtained by writing to the Food and Drug Administration, Bureau of Radiological Health, HFX-25, 5600 Fishers Lane, Rockville, MD 20852. Also, individual manufacturers may, on a voluntary basis, make warning labels available to owners of older ovens.

4. One comment suggested that the phrase "using microwave energy" be deleted from the first precaution in user and service instructions in § 1030.10(c) (4) (iii) (a) and (5) (iii) (a) and from the first warning label precaution in § 1030.10 (c) (6) (i) for ovens that can be operated only with microwave energy. It was stated that the phrase would tend to confuse owners of the majority of microwave ovens which operate only with microwave energy, since the phrase implies that the oven can operate with other than microwave energy.

The Commissioner agrees that, as worded, the warning could be confusing and the phrase has been deleted. It should be noted, however, that proposed § 1030.10(c) (4) (iv), (5) (iv), and (6) (iii) provide for the use of additional instructions for particular oven designs or models. These provisions would permit a manufacturer to employ the phrase "using microwave energy" for combination ovens which use other means of cooking in addition to microwave energy.

5. One comment suggested that the Food and Drug Administration specify the procedures and criteria that would be used to decide which oven models require additional precautions and how the additional precautions should be worded.

The Commissioner has concluded that decisions on the suitability of additional precautions must be made on a model by model basis. It is not possible for the FDA to specify generally applicable procedures and criteria which would be sufficient for all makes and models of ovens.

6. One comment advocated recordkeeping and reporting requirements with regard to § 1030.10(c) (5) (iii) (e) of the proposed service instructions, concerning leakage checks prior to release of a microwave oven to an owner.

The Food and Drug Administration does not have the authority under the Radiation Control for Health and Safety Act of 1968 to impose recordkeeping and reporting requirements on independent service agents. If such requirements were needed, they could be imposed by local or State jurisdictions. However, the Commissioner concludes that no evidence has been presented which supports the need for such requirements on service agents.

7. Several comments stated that proposed § 1030.10(c) (5) (iii) (e) regarding leakage checks, implies a legal obligation to measure leakage radiation and verify compliance with the Federal Standard during each service call, necessitating substantial costs for instrumentation to service agents. Furthermore, it was suggested that leakage checks should be required only if repairs are such that leakage may be affected.

The amendment imposes a requirement on manufacturers to include the prescribed precautions in user and service literature. The Radiation Control for Health and Safety Act of 1968 does not authorize direct regulatory control of service personnel. Therefore, the service instructions state that a microwave leakage check, while not mandatory, should be performed, as an integral part of microwave oven servicing.

8. One comment suggested that the label specified in proposed § 1030.10(c) (6) (i) be on the front exterior surface of the oven. In addition, several comments requested clarification concerning placement of the proposed label.

The Commissioner has established that the intent of the proposed amendment would be served if the label were on any surface (internal or external) as long as the label is readily viewable during normal oven use. Thus, it would fulfill this intent if it were viewable either when the oven door is open or closed.

There is no radiation safety basis for specifying the exact position of the label.

9. Three comments stated that the requirements in § 1030.10(c) (5) that service instructions be made available to any interested parties, is inconsistent with the intent of § 1030.10(c) (4) (iii) and (6) (ii) which advise that service should be performed only by qualified service personnel.

The Commissioner has determined that although one intent of the proposed amendment is to discourage unqualified user servicing, this should not be accomplished by withholding service information from those who may have the technical skills to use such information.

10. Two comments requested that the effective date be 1 year after publication of the final order, rather than 6 months as proposed, because some oven models would require design changes in order to place the proposed label according to the amendment.

Since the exact position of the label is not specified, as discussed in paragraph 8 above, the Commissioner has concluded that no currently marketed microwave ovens would require redesign to comply with the labeling provisions of the amendment.

11. Three comments stated that the phrase "exposure to microwave energy," in the proposed warning labels and user and service instructions, implies that any exposure to microwave energy is harmful. It was suggested that the word "excessive" be inserted before "microwave energy."

The Commissioner agrees with the suggested change and § 1030.10(c) (4) (iii), (5) (iii), (6) (i), and (ii) have been changed accordingly.

12. One comment asserted that directing attention to the danger of defeating interlocks in proposed § 1030.10(c) (4) (iii) (a) is, in itself, a potential hazard, since it may invite inspection of and tampering with the interlocks by curious persons.

The Commissioner concludes that since open-door operation is extremely hazardous, interference with the safety interlocks must be vigorously discouraged. It is considered unlikely that the warning would motivate tampering by persons not already disposed to do so. This precaution augments the engineering safeguards provided by the interlock and interlock monitor provisions of the microwave oven standard.

13. One comment suggested changing the word "Radiation" to "Energy" on the service label as proposed in § 1030.10(c) (6) (ii).

The Commissioner agrees with the suggestion. Therefore, the word "Radiation" has been changed to "Energy" in § 1030.10(c) (6) (ii) to be consistent with the phraseology of the user label and instructional material.

14. As an alternative to a permanent warning label, one comment recommended that only a temporary warning sign be required, suggesting that the sign be placed near the microwave oven for users unfamiliar with the oven.

The Commissioner disagrees and emphasizes that a primary reason for requiring permanently attached labels is to make all users aware of the most important precautions. In particular, it is important to inform users of ovens in commercial settings, users of ovens installed in dwellings at the time of construction, and other users who may not have access to the user's manual. These objectives would not be met by a temporary, easily misplaced sign.

15. One comment suggested that the warning label, as proposed in § 1030.10(c) (6) (i) should only be required for microwave ovens used commercially, and that the label not be required for home ovens because it could detract from the appearance of such ovens.

The Commissioner disagrees with the suggestion since all microwave oven users must be advised of the most important precautions. It would not suffice to require warning labels only on commercially used ovens. The warning label would not be required to be viewable except during normal oven use, i.e., either when the oven door is open or closed. The label may be positioned so that it is not visible when the oven door is closed. See paragraph 8 above.

16. A manufacturer of microwave ovens stated that his and certain other manufacturers' ovens should not be required to bear the proposed user warning label mentioned in § 1030.10(c) (6) (i) primarily because these ovens, by design, are not susceptible to the situations addressed by the proposed label. The comment suggested that either the current performance standard be amended to eliminate the problems addressed by the proposed warning label, or that warning labels not be required for microwave oven models not susceptible to the problems addressed by the label. The commentator rejects the variance provisions in § 1010.4 (21 CFR 1010.4) as a mechanism for relieving such ovens from the labeling requirement because he believes that a variance might appear to the consumer as an indication that the product has uncorrectable radiation safety problems. It was alleged that such an effect upon the consumer would result in an unfair competitive disadvantage for the manufacturers of such ovens.

The Commissioner recognizes that all microwave oven models might not be equally susceptible to the conditions of use warned against in the proposed user label. However, the commentator has not adequately documented his claim that his ovens are not susceptible to conditions such as increased emissions due to a damaged door, hinge, latch, or sealing surface.

With respect to the suggestion that the performance requirements of the current standard be amended to eliminate the problems addressed by the proposed user label, the Commissioner concludes that, while it might be possible to counteract such adverse conditions of use warned against in the proposed label by such an amendment, it would not now be justified. Such a major change in the performance standard at this time would

severely disrupt the industry and would not yield benefits substantially greater than those realized by the proposed amendment.

The Commissioner concludes that it is reasonable to assume that through technological refinements microwave ovens could be designed which are not likely to be subject to one or more of the adverse conditions of use referred to in the proposed user warning label.

The Commissioner has determined that in such instances a manufacturer should not be required to comply with the provisions of the user warning label requirements.

Therefore, the Commissioner has added to this order a new § 1030.10(c) (6) (iv) whereby a manufacturer may apply to the Director, Bureau of Radiological Health, Food and Drug Administration, for an exemption from part or all of the user warning label requirement. The granting of an exemption will be based on data and information submitted by the manufacturer which substantiate that one or more of the radiation safety warnings in § 1030.10(c) (6) (i) are not necessary for the microwave oven model for which the exemption is sought. The Director may require a sample of the applicable model before a determination is made whether or not to grant the exemption. Those manufacturers who believe their microwave oven design could support an application for exemption, should submit such application to the Director, Bureau of Radiological Health, according to the procedures specified in 21 CFR 1030.10(c) (6) (iv).

The Commissioner has determined that the exemption provision should be limited to the requirement for user labels, and not apply to the user instructions required in § 1030.10(c) (4). The granting of an exemption will be made only on an evaluation, based upon criteria, which shows a very low probability of occurrence of the radiation exposure situation for which the exemption is sought. The precautionary statements in the user instructions, on the other hand, are intended to avert even those situations which have a very low probability of occurrence. They are educational and general in nature, and address all possible adverse conditions of use.

A more detailed analysis of the comments received in response to the proposal is available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. This analysis includes comments that did not relate directly to the proposal, but were received in response to it.

The Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f) states that each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect; a regulation prescribing or amending a standard may not take effect sooner than 1 year nor later than 2 years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and issues

for publication in the FEDERAL REGISTER his reason for such finding in which case such earlier or later date shall apply.

The Commissioner has determined that an earlier effective date is in the public interest since it is necessary that microwave oven users and service personnel have adequate safety instructions to assure protection of the public health. The amendment should not necessitate any changes in microwave oven design. Furthermore, 6 months should be an adequate length of time to revise user and service manuals and to have user and service labels prepared. Therefore, the earlier effective date should not impose an unreasonable burden on manufacturers.

Pursuant to provisions of § 6.1(b) (21 CFR 6.1(b)), the possible environmental consequences of these amendments have been carefully considered. In accordance with the guidelines of the Council on Environmental Quality (40 CFR 1500.6(a)), concerning the identification of actions which may cumulatively have a significant effect upon the environment, the possible environmental consequences of these amendments have been evaluated. It has been concluded that this action will not have a significant effect upon the environment and, therefore, an environmental impact statement pursuant to section 102(2)(c) of the National Environmental Policy Act is not required.

Data and information supporting the Commissioner's conclusions with respect to this order and a copy of the environmental assessment report are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The Commissioner of Food and Drugs has determined that this amendment to § 1030.10 is necessary for the protection of the public health and safety.

Therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179; 42 U.S.C. 263f) and under authority delegated to the Commissioner (21 CFR 2.120), § 1030.10 is amended by revising paragraph (c) (4) and adding new paragraph (c) (5) and (6) to read as follows:

§ 1030.10 Microwave ovens.

(c) * * *

(4) *User instructions.* Manufacturers of microwave ovens to which this section is applicable shall provide, or cause to be provided, with each oven, radiation safety instructions which:

(i) Occupy a separate section and are an integral part of the regularly supplied user's manual and cookbook, if supplied separately, and are located so as to elicit the attention of the reader.

(ii) Are as legible and durable as other instructions with the title emphasized to elicit the attention of the reader by such means as bold-faced type, contrasting color, a heavy-lined border, or by similar means.

(iii) Contain the following wording:

PRECAUTIONS TO AVOID POSSIBLE EXPOSURE TO EXCESSIVE MICROWAVE ENERGY

(a) Do not attempt to operate this oven with the door open since open-door operation can result in harmful exposure to microwave energy. It is important not to defeat or tamper with the safety interlocks.

(b) Do not place any object between the oven front face and the door or allow soil or cleaner residue to accumulate on sealing surfaces.

(c) Do not operate the oven if it is damaged. It is particularly important that the oven door close properly and that there is no damage to the: (1) Door (bent), (2) hinges and latches (broken or loosened), (3) door seals and sealing surfaces.

(d) The oven should not be adjusted or repaired by anyone except properly qualified service personnel.

(iv) Include additional radiation safety precautions or instructions which may be necessary for particular oven designs or models, as determined by the Director, Bureau of Radiological Health or the manufacturer.

(5) *Service instructions.* Manufacturers of microwave ovens to which this section is applicable shall provide or cause to be provided to servicing dealers and distributors and to others upon request, for each oven model, adequate instructions for service adjustments and service procedures, and, in addition, radiation safety instructions which:

(i) Occupy a separate section and are an integral part of the regularly supplied service manual and are located so as to elicit the attention of the reader.

(ii) Are as legible and durable as other instructions with the title emphasized so as to elicit the attention of the reader by such means as bold-faced type, contrasting color, a heavy-lined border, or by similar means.

(iii) Contain the following wording:

PRECAUTIONS TO BE OBSERVED BEFORE AND DURING SERVICING TO AVOID POSSIBLE EXPOSURE TO EXCESSIVE MICROWAVE ENERGY

(a) Do not operate or allow the oven to be operated with the door open.

(b) Make the following safety checks on all ovens to be serviced before activating the magnetron or other microwave source, and make repairs as necessary: (1) Interlock operation, (2) proper door closing, (3) seal and sealing surfaces (arcing, wear, and other damage), (4) damage to or loosening of hinges and latches, (5) evidence of dropping or abuse.

(c) Before turning on microwave power for any service test or inspection within the microwave generating compartments, check the magnetron, wave guide or transmission line, and cavity for proper alignment, integrity, and connections.

(d) Any defective or misadjusted components in the interlock, monitor, door seal, and microwave generation and transmission systems shall be repaired, replaced, or adjusted by procedures described in this manual before the oven is released to the owner.

(e) A Microwave leakage check to verify compliance with the Federal performance standard should be performed on each oven prior to release to the owner.

(iv) Include additional radiation safety precautions or instructions which may be necessary for particular oven designs or models, as determined by the Director, Bureau of Radiological Health or the manufacturer.

(6) **Warning labels.** Except as provided in paragraph (c)(6)(iv) of this section, microwave ovens shall have the following warning labels:

(i) A label, permanently attached to or inscribed on the oven, which shall be legible and readily viewable during normal oven use, and which shall have the title emphasized and be so located as to elicit the attention of the user. The label shall bear the following warning statement:

PRECAUTIONS FOR SAFE USE TO AVOID POSSIBLE EXPOSURE TO EXCESSIVE MICROWAVE ENERGY

DO NOT Attempt to Operate This Oven With:

- (a) Object Caught in Door.
- (b) Door That Does Not Close Properly.
- (c) Damaged Door, Hinge, Latch, or Sealing Surface.

(ii) A label, permanently attached to or inscribed on the external surface of the oven, which shall be legible and readily viewable during servicing, and which shall have the word "CAUTION" emphasized and be so located as to elicit the attention of service personnel. The label shall bear the following warning statement:

CAUTION: This Device is to be Serviced Only by Properly Qualified Service Personnel. Consult the Service Manual for Proper Service Procedures to Assure Continued Compliance with the Federal Performance Standard for Microwave Ovens and for Precautions to be Taken to Avoid Possible Exposure to Excessive Microwave Energy.

(iii) The labels provided in accordance with paragraph (c)(6)(i) and (ii) of this section shall bear only the statements specified in that paragraph, except for additional radiation safety warnings or instructions which may be necessary for particular oven designs or models, as determined by the Director, Bureau of Radiological Health or the manufacturer.

(iv) Upon application by a manufacturer, the Director, Bureau of Radiological Health, Food and Drug Administration, may grant an exemption from one or more of the statements (radiation safety warnings) specified in paragraph (c)(6)(i) of this section. Such exemption shall be based upon a determination by the Director that the microwave oven model for which the exemption is sought should continue to comply with paragraph (c)(1), (2), and (3) of this section under the adverse condition of use addressed by such precautionary statement(s). Applications shall be submitted in quintuplicate to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Copies of the written portion of the application, including supporting data and information, and the Director's action on the application will be maintained by the

Hearing Clerk for public review. The application shall include:

(a) The specific microwave oven model(s) for which the exemption is sought.

(b) The specific radiation safety warning(s) from which exemption is sought.

(c) Data and information which clearly establish that one or more of the radiation safety warnings in paragraph (c)(6)(i) is not necessary for the specified microwave oven model(s).

(d) Such other information and a sample of the applicable product if required by regulation or by the Director, Bureau of Radiological Health, to evaluate and act on the application.

Effective date. This order shall become effective on September 29, 1975.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f))

Dated: March 5, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-8334 Filed 4-1-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—INTRODUCTION

[Docket No. R-75-210]

PART 300—GENERAL

List of Attorneys-in-Fact

Paragraph (c) of § 300.11 is amended to add additional names to the list of attorneys-in-fact authorized to act on behalf of the Association.

Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association in connection with its recent auctions of mortgages.

Paragraph (c) of § 300.11 is amended by adding the following names in alphabetical sequence to the current list of attorneys-in-fact:

§ 300.11 Power of attorney.

- (c)
- Robert E. Airy, Washington, D.C.
-
- Thomas L. Kinney, Washington, D.C.
-

Effective date. This amendment shall be effective April 2, 1975.

DANIEL P. KEARNEY,
President, Government National
Mortgage Association.

[FR Doc.75-8457 Filed 4-1-75;8:45 a.m.]

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-298]

PART 1700—INTRODUCTION

Subpart A—Authority and Organization

PUBLIC INFORMATION

On November 11, 1974, a notice of proposed rulemaking (39 FR 39733) was published in the FEDERAL REGISTER. The proposal invited public comment on the establishment of a fixed fee of \$12.00 per filing for duplication fees and certification of registration to the various States accepting Federal filings. The deadline for receipt of written comments was December 9, 1974. No written comments were received and all verbal comments were favorable with the exception of two, one which addressed the Freedom of Information Act and was beyond the scope of this amendment. The other addressed the method of payment of the fees set forth in the current paragraph (b) and the proposed paragraph (e). As a result of that comment a new paragraph (f) has been added which sets forth the acceptable methods of payments of these fees.

Section 1700.30 is amended by adding new paragraphs (e) and (f) as follows:

§ 1700.30. Public information.

(e) *Duplication and certification fee—required documents to the several States that accept Federal filings.* Notwithstanding the provisions of § 15.14 *Schedule of fees* of this title, copies of documents on file with the Office of Interstate Land Sales Registration that are provided for certification to the several states that accept Federal filings will be provided upon request for a fixed fee of \$12.00 per filing regardless of the number of pages duplicated.

(f) *Methods of payment.* The fees set forth in paragraphs (d) and (e) of this section may be paid by cash, by personal check, or by company check; or by U.S. money orders; or by certified check payable to the Treasurer of the United States or to the Department of Housing and Urban Development. Postage stamps will not be accepted. All other fees must be paid as set forth in § 15.14(g) of Title 24 of the Code of Federal Regulations.

(Sec. 7(d), Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d), 1419); 82 Stat. 598 (16 U.S.C. 1718); Secretary's delegation of authority published at 37 FR 5071)

Effective date. These amendments will be effective on May 5, 1975.

JOHN R. McDOWELL,
Acting Interstate Land
Sales Administrator.

[FR Doc.75-8459 Filed 4-1-75;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-539]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Where two dates appear in the column marked effective date of identification, the first listing refers to the initial identification of areas having special flood hazards, and the second date refers to additional areas identified. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Arkansas	Clark	Gurdon, city of	H 050239 01	Division of Soil and Water Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Gurdon, Ark. 71743.	Apr. 18, 1973
Do.	Calhoun	Harrell, town of	H 050250 01	do.	Town Council, Town of Harrell, Harrell, Ark. 71745.	Do.
Do.	Bradley	Hermitage, town of	H 050253 01	do.	Town Council, Town of Hermitage, Hermitage, Ark. 71647.	Do.
Do.	Lawrence	Lynn, town of	H 050268 01	do.	Town Council, Lynn, Ark. 72440.	Do.
Do.	Randolph	O'Kean, town of	H 050271 01	do.	Town Council, O'Kean, Ark. 72419.	Do.
Do.	Jefferson	Redfield, town of	H 050271 02	do.	Town Council, Redfield, Ark. 72132.	Do.
Do.	Arkansas	St. Charles, town of	H 050282 01 H 050285 01	do.	Town Council, St. Charles, Ark. 72140.	Do.
Do.	Logan	Scranton, city of	H 050286 01	do.	Mayor, City Hall, Scranton, Ark. 72863.	Do.
Do.	Saline	Traskwood, town of	H 050294 01 H 050294 02	do.	Town Council, Town of Traskwood, Traskwood, Ark. 72167.	Do.
Do.	Carroll	Berryville, city of	H 050306 01 H 050306 02	do.	Mayor, City Hall, City of Berryville, Berryville, Ark. 72616.	Do.
Do.	Pulaski	Cammack Village, city of	H 050310 01	do.	Mayor, City of Cammack Village, City Hall, Cammack Village, Ark. No ZIP.	Do.
Do.	Benton	Decatur, city of	H 050310 01	do.	Mayor, City of Decatur, City Hall, Decatur, Ark. 72722.	Do.
Do.	Pope	Dover, city of	H 050321 01	do.	Mayor, City Hall, City of Dover, Dover, Ark. 72837.	Do.
Do.	Pike	Glenwood, city of	H 050326 01	do.	Mayor, City Hall, City of Glenwood, Glenwood, Ark. 71943.	Do.
Do.	Sevier	Horatio, city of	H 050333 01	do.	Mayor, City of Horatio, City Hall, Horatio, Ark. 71842.	Do.
Do.	Union	Junction City, city of	H 050336 01	do.	Mayor, City Hall, Junction City, Ark. 71749.	Do.
Do.	Sevier	Lockesburg, city of	H 050339 01	do.	Mayor, City Hall, Lockesburg, Ark. 71846.	Do.
Do.	Crittenden	Marion, city of	H 050345 01	do.	Mayor, City of Marion, City Hall, Marion, Ark. 72364.	Do.
Do.	Pike	Murfreesboro, city of	H 050353 01	do.	Mayor, City Hall, City of Murfreesboro, Ark. 71838.	Do.
Do.	White	Pangburn, city of	H 050360 01	do.	Mayor, City Hall, City of Pangburn, Pangburn, Ark. 72121.	Do.
Do.	Benton	Pea Ridge, city of	H 050361 01 H 050361 02	do.	Mayor, City of Pea Ridge, City Hall, Pea Ridge, Ark. 72751.	Do.
Do.	Perry	Perryville, city of	H 050362 01 H 050362 02	do.	Mayor, City of Perryville, City Hall, Perryville, Ark. 72126.	Do.
Do.	Yell	Plainview, city of	H 050363 01	do.	Mayor, City of Plainview, City Hall, Plainview, Ark. 72857.	Do.
Do.	Lincoln	Star City, city of	H 050368 01	do.	Mayor, City Hall, City of Star City, Star City, Ark. 71667.	Do.
Do.	Polk	Tyrone, city of	H 050371 01	do.	Mayor, City Hall, City of Tyrone, Tyrone, Ark. 72386.	Do.
Do.	Lonoke	Ward, city of	H 050372 01	do.	Mayor, City of Ward, City Hall, Ward, Ark. 72176.	Do.
Do.	Polk	Weiner, city of	H 050373 01	do.	Mayor, City Hall, City of Weiner, Weiner, Ark. 72479.	Do.
Do.	Jefferson	Whitehall, city of	H 050375 01	do.	Mayor, City Hall, City of Whitehall, Whitehall, Ark. 71601.	Do.
Do.	Perry	Adona, city of	H 050376 01	do.	Mayor, Adona, Ark. 72001.	Do.
Do.	Pulaski	Alexander, town of	H 050377 01	do.	Town Council, Town of Alexander, Alexander, Ark. 72002.	Do.
Do.	Lonoke	Austin, town of	H 050383 01	do.	Town Council, Town of Austin, Austin, Ark. 72007.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Yell	Belleville, city of	H 050384 01	do	Mayor, City of Belleville, City Hall, Belleville, Ark. 72834.	Do.
Do.	Boone	Bergman, town of	H 050385 01	do	Town Council, Town of Bergman, Bergman, Ark. 72615.	Do.
Do.	Hempstead	Blevins, city of	H 050390 01 through H 050393 02	do	Mayor, City Hall City of Blevins, Blevins, Ark. 71825.	Do.
Do.	Craighead	Cash, town of	H 050396 01	do	Town Council, Town of Cash, Cash, Ark. 72421.	Do.
Do.	Benton	Centerton, city of	H 050399 01	do	Mayor, City Hall, City of Centerton, Centerton, Ark. 72719.	Do.
Do.	Polk	Cove, town of	H 050401 01 through H 050404 01	do	Town Council, Town of Cove, Cove, Ark. 71937.	Do.
Do.	Faulkner and Van Buren	Damascus, town of	H 050404 01	do	Town Council, Town of Damascus, Damascus, Ark. 72039.	Do.
Do.	Pike	Delight, city of	H 050405 01	do	Mayor, City Hall, City of Delight, Delight, Ark. 71940.	Do.
Do.	Sharp	Evening Shade, town of	H 050412 01	do	Town Council, Town of Evening Shade, Evening Shade, Ark. 72532.	Do.
California	Santa Clara	Cupertino, city of	H 050339A 01 through H 050339A 04	Department of Water Resources, Post Office Box 388, Sacramento, Calif. 95802. California Insurance Dept., 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City of Cupertino, City Hall, 10200 Torre Ave., Cupertino, Calif. 95014.	Feb. 15, 1974. Apr. 18, 1975.
Do.	Stanislaus	Riverbank, city of	H 050391A 01	do	Mayor, City of Riverbank, City Hall, 6707 3rd St., Riverbank, Calif. 95367.	May 10, 1974.
Do.	Los Angeles	Hawaiian Gardens, city of	H 050392B 01	do	City Hall, City of Hawaiian Gardens, 12134 Tilbury St., Hawaiian Gardens, Calif. 90716.	May 14, 1971.
Connecticut	Hartford	Bristol, city of	H 050023A 01 through H 050023A 12	do	Mayor, City of Bristol, City Hall, 111 North Main St., Bristol, Conn. 06010.	May 17, 1974. Apr. 18, 1975.
Do.	Tolland	Andover, town of	H 050101 01 through H 050101 02	do	First Selectman of Andover, Town Office Bldg., School Rd., Andover, Conn. 06022.	Apr. 18, 1975.
Georgia	Dooly	Pinehurst, town of	H 130071 01	Department of Natural Resources, Office of Planning and Research, 270 Washington St., S.W., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Mayor, City of Pinehurst, City Hall, Pinehurst, Ga. 31070.	Do.
Do.	Dooly	Vienna, city of	H 130073 01 through H 130073 04	do	Mayor, City of Vienna, City Hall, Vienna, Ga. 31092.	Do.
Do.	Banks	Homer, town of	H 130271 01 through H 130271 06	do	Town Council, Town of Homer, Homer, Ga. 30647.	Do.
Do.	Barlow	Kingston, city of	H 130277 01	do	Mayor, City of Kingston, City Hall, Kingston, Ga. 30145.	Do.
Do.	Chattooga	Menlo, city of	H 130295 01	do	Mayor, City of Menlo, City Hall, Menlo, Ga. 30731.	Do.
Do.	Coweta and Meriwether	Haralson, city of	H 130299 01	do	Mayor, City of Haralson, City Hall, Haralson, Ga. 30229.	Do.
Do.	Coweta	Moreland, town of	H 130300 01	do	Town Council, Town of Moreland, Moreland, Ga. 30259.	Do.
Do.	Crawford	Roberta, city of	H 130303 01	do	Mayor, City of Roberta, City Hall, Roberta, Ga. 31078.	Do.
Do.	Evans	Hagan, city of	H 130311 01 through H 130311 03	do	Mayor, City of Hagan, City Hall, Hagan, Ga. 30429.	Do.
Do.	Gordon	Plainville, town of	H 130319 01	do	Town Council, Town of Plainville, Plainville, Ga. 30733.	Do.
Do.	Gwinnett	Dacula, town of	H 130324 01	do	Town Council, Town of Dacula, Dacula, Ga. 30211.	Do.
Do.	Haralson and Carroll	Bremen, city of	H 130335 01 through H 130335 06	do	Mayor, City Hall, City of Bremen, Bremen, Ga. 30110.	Do.
Do.	Haralson	Buchanan, city of	H 130336 01	do	Mayor, City of Buchanan, City Hall, Buchanan, Ga. 30113.	Do.
Do.	Jackson	Braselton, town of	H 130343 01	do	Town Council, Town of Braselton, Braselton, Ga. 30517.	Do.
Do.	Lee	Leesburg, city of	H 130348 01	do	Mayor, City Hall, City of Leesburg, Leesburg, Ga. 31763.	Do.
Do.	Madison	Colbert, city of	H 130355 01	do	Mayor, City Hall, City of Colbert, Colbert, Ga. 30628.	Do.
Do.	Thomas	Boston, city of	H 130402 01	do	Mayor, City Hall, City of Boston, Boston, Ga. 31626.	Do.
Do.	Meriwether	Chalybeate Springs, town of	H 130435 01 through H 130435 02	do	Town Council, Town of Chalybeate Springs, Chalybeate Springs, Ga. No Zip.	Do.
Idaho	Caribou	Grace, city of	H 160169 01	Department of Water Administration, State House, Annex 2, Boise, Idaho 83707. Idaho Department of Insurance, Room 206, State House, Boise, Idaho 83707.	Mayor, City of Grace, City Hall, Grace, Idaho 83241.	Do.
Illinois	Alexander	Cairo, city of	H 170004A 01 through H 170004A 04	Governor's Task Force on Flood Control, 300 North State St., P.O. Box 475, Room 1010, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	City Clerk, City of Cairo, Cairo, Ill. 62914.	June 14, 1974.
Do.	McLean	Stanford, village of	H 170503 01	do	Mayor, Village of Stanford, Stanford, Ill. 61774.	Apr. 18, 1975.
Do.	Will and Du Page	Bolingbrook, village of	H 170812A 01 through H 170812A 03	do	Village Hall, Village of Bolingbrook, 131 East Boughton Rd., Bolingbrook, Ill. 60439.	Apr. 12, 1974. Apr. 18, 1975.
Do.	Livingston	Reddick, village of	H 170824 01	do	Village Clerk, Village of Reddick, Reddick, Ill. 60061.	Do.
Do.	McHenry	Oakwood Hills, village of	H 170831 01	do	Village Clerk, Village of Oakwood Hills, Oakwood Hills, Ill. No ZIP.	Do.
Do.	Jackson	Dowell, village of	H 170875 01	do	Village Clerk, Village of Dowell, Dowell, Ill. 62927.	Do.
Do.	Rock Island	Reynolds, village of	H 170883 01	do	Village Clerk, Village of Reynolds, Reynolds, Ill. 61279.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Iowa	Poweshiek	Brooklyn, city of	H 190495 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319.	Mayor, City of Brooklyn, City Hall, Brooklyn, Iowa 52211.	Do.
Maine	Aroostook	Perham, town of	H 230030 01 through H 230030 06	Office of Civil Emergency Preparedness, State House, Augusta, Maine 04330. Maine Insurance Department, Capitol Shopping Center, Augusta, Maine 04330.	Town of Perham, First Selectman, Rural Free Delivery No. 1, Washburn, Maine 04780.	Do.
Do.	Cumberland	Scarborough, town of	H 230052A 01 through H 230052A 04	do.	Town Manager, Box 337, Town of Scarborough, Scarborough, Maine 04047.	May 17, 1974.
Do.	do	Standish, town of	H 230207 01 through H 230207 16	do.	Town Council, Town of Standish, Standish, Maine 04084.	Apr. 18, 1975.
Do.	Knox	Vinalhaven, town of	H 230230 01 through H 230230 08	do.	Town Council, Town of Vinalhaven, Vinalhaven, Maine 04863.	Do.
Do.	Kennebec	Clinton, town of	H 230236 01 through H 230236 04	do.	Town Council, Town of Clinton, Clinton, Maine 04927.	Do.
Do.	do	Monmouth, town of	H 230240 01 through H 230240 04	do.	Town Council, Town of Monmouth, Monmouth, Maine 04259.	Do.
Do.	do	Mount Vernon, town of	H 230241 01 through H 230241 04	do.	Town Council, Town of Mount Vernon, Mount Vernon, Maine No ZIP.	Do.
Do.	Hancock	Dedham, town of	H 230279 01 through H 230279 04	do.	Town Council, Town of Dedham, Dedham, Maine No ZIP.	Do.
Do.	do	Eastbrook, town of	H 230281 01 through H 230281 04	do.	Town Council, Town of Eastbrook, Eastbrook, Maine No ZIP.	Do.
Do.	do	Hancock, town of	H 230284 01 through H 230284 04	do.	Town Council, Town of Hancock, Hancock, Maine 04660.	Do.
Do.	do	Otis, town of	H 230289 01 through H 230289 02	do.	Town Council, Town of Otis, Otis, Maine No ZIP.	Do.
Do.	Washington	Columbia Falls, town of	H 230308 01 through H 230308 02	do.	Town Council, Town of Columbia Falls, Columbia Falls, Maine 04623.	Do.
Do.	Somerset	Harmony, town of	H 230360 01 through H 230360 04	do.	Town Council, Town of Harmony, Harmony, Maine 04942.	Do.
Do.	do	Solon, town of	H 230371 01 through H 230371 04	do.	Town Council, Town of Solon, Solon, Maine 04979.	Do.
Do.	do	Starks, town of	H 230372 01 through H 230372 05	do.	Town Council, Town of Starks, Starks, Maine No ZIP.	Do.
Maryland	Baltimore	Unincorporated areas	H 240010 01 through H 240010 154	Department of Natural Resources, Water Resources Division, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Department of Public Works, Baltimore County Office Bldg., 111 West Chesapeake Ave., Towson, Md. 21204.	Do.
Michigan	Wayne	Southgate, city of	H 260242A 01 through H 260242A 02	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	Chief Inspector, Building & Engineering Department, City of Southgate, 13763 Northline Rd., Southgate, Mich. 48195.	Apr. 12, 1974. Apr. 18, 1975.
Do.	Lenawee	Clinton, village of	H 260437 01 through H 260437 02	do.	Village Clerk, Village of Clinton, Clinton, Mich. 49236.	Do.
Minnesota	Morrison	Pierz, city of	H 270301A 01 through H 270301A 02	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, Room 210 State Office Bldg., St. Paul, Minn. 55101.	Mayor, City of Pierz, Pierz, Minn. 56364.	June 7, 1974.
Do.	Mower	Mapleview, city of	H 270386 01 through H 270386 02	do.	City Clerk, City of Mapleview, Mapleview, Minn. No ZIP.	Apr. 18, 1975.
Do.	Wadena	Nimrod, city of	H 270391 01 through H 270391 02	do.	Mayor, City of Nimrod, City Hall, Nimrod, Minn. 56478.	Do.
Do.	Nicollet	North Mankato, city of	H 273245B 01 through H 273245B 02	do.	City of North Mankato, Municipal Bldg., 1001 Belgrade Ave., North Mankato, Minn. 56001.	Apr. 28, 1972.
Missouri	Vernon	Shell City, city of	H 290519 01 through H 290519 02	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson, Mo. 65101. Division of Insurance, Post Office Box 600, Jefferson City, Mo. 65101.	City Clerk, City of Shell City, Shell City, Mo. (No ZIP).	Do.
Do.	McDonald	Pineville, city of	H 290535 01 through H 290535 02	do.	City Clerk, City of Pineville, Pineville, Mo. 64850.	Do.
Do.	Harrison	Ridgeway, city of	H 290543 01 through H 290543 02	do.	City of Ridgeway, City Hall, Ridgeway, Mo. 64481.	Do.
Do.	St. Francois	Leadington, village of	H 290560 01 through H 290560 02	do.	Village Clerk, Village of Leadington, Leadington, Mo. (No ZIP).	Do.
Do.	Madison	Marquand, city of	H 290565 01 through H 290565 02	do.	City Clerk, City of Marquand, Marquand, Mo. 63555.	Do.
Do.	Barton	Mindenmines, city of	H 290570 01 through H 290570 02	do.	City Clerk, City of Mindenmines, Mindenmines, Mo. 64769.	Do.
Do.	Harrison	Eagleville, village of	H 290586 01 through H 290586 02	do.	Village Clerk, Village of Eagleville, Eagleville, Mo. 64442.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Lafayette and Saline	Emma, city of	H 290587 01	do.	City Administrator, City of Emma, Emma, Mo. 65327.	Do.
Do.	Dade	Everton, city of	H 290589 01	do.	City Administrator, City of Everton, Everton, Mo. 65646.	Do.
Do.	Caldwell	Cowgill, city of	H 290605 01	do.	City Clerk, City of Cowgill, Cowgill, Mo. 64937.	Do.
Do.	Iron	Des Arc, village of	H 290613 01	do.	Village Clerk, Village of Des Arc, Des Arc, Mo. 63635.	Do.
Do.	Vernon	Walker, city of	H 290831 01	do.	City Clerk, City of Walker, Walker, Mo. 64790.	Do.
Do.	Shelby	Shelbyville, city of	H 290696 01	do.	City of Shelbyville, City Hall, Shelbyville, Mo. 63109.	Do.
Do.	Henry	Montrose, city of	H 290690 01	do.	City Clerk, City of Montrose, Montrose, Mo. 64770.	Do.
Do.	Randolph	Huntsville, city of	H 290718 01	do.	City Administrator, City of Huntsville, Huntsville, Mo. 65259.	Do.
Do.	Iron	Annapolis, city of	H 290703 01	do.	City Administrator, City of Annapolis, Annapolis, Mo. 63650.	Do.
Montana	Roosevelt	Froid, town of	H 300003 01	Montana Department of Natural Resources and Conservation, Water Resources Division, 32 South Ewing St., Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	Town Clerk, Town Hall, Town of Froid, Froid, Mont. 59228.	Do.
Do.	Pondera	Valier, town of	H 300133 01	do.	Town Clerk, Town of Valier, Town Hall, Valier, Mont. 59435.	Do.
Nebraska	York	Benedict, village of	H 310250 01	Nebraska Natural Resources Commission, Terminal Bldg., 7th Floor, Lincoln, Nebr. 68508. Nebraska Insurance Department, 1335 L St., Lincoln, Nebr. 68509.	Village President, Village of Benedict, Benedict, Nebr. 68316.	Do.
New Hampshire	Coc.	Northumberland town of	H 330036A 01 through H 330036A 07	Office of Comprehensive Planning, Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	Town Manager, Town Office, Town of Northumberland, Northumberland, N.H. 03582.	Feb. 22, 1974.
New York	Broome	Colesville, town of	H 360041 01 through H 360041 05	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Town Supervisor, Town of Colesville, Rural Delivery No. 2, Harpursville, N.Y. 13787.	June 28, 1974.
Do.	Clinton	Saranac, town of	H 360171 01 through H 360171 08	do.	Town Supervisor, Saranac, N.Y. 12981.	Apr. 18, 1975.
Do.	Seneca	Seneca Falls, town of	H 360756A 01 through H 360756A 04	do.	Town Supervisor, Town of Seneca Falls, West Williams St., Waterloo, N.Y. 13165.	June 28, 1974. Apr. 18, 1975.
Ohio	Ross	Bainbridge, village of	H 390481A 01	Ohio Department of Natural Resources, Flood Insurance Coord. Bldg., Fountain Sq., Columbus, Ohio 43224. Ohio Insurance Department, 447 East Broad St., Columbus, Ohio 43215.	Mayor's Office, Post Office, Village of Bainbridge, Bainbridge, Ohio 45612.	Mar. 29, 1974.
Do.	Washington	Beverly, village of	H 390568A 01	do.	Mayor, Village of Beverly, Beverly, Ohio 45715.	Apr. 3, 1974.
Do.	Lawrence	Proctorville, village of	H 390700 01	do.	Village Clerk, Village of Proctorville, Proctorville, Ohio 45669.	Apr. 18, 1975.
Do.	Coshocton	Warsaw, village of	H 390733 01	do.	Village Clerk, Village of Warsaw, Warsaw, Ohio 43844.	Do.
Do.	Cuyahoga	North Randall, village of	H 390736 01	do.	Village Clerk, Village of North Randall, North Randall, Ohio No ZIP.	Do.
Do.	do.	Orange, village of	H 390737 01 through H 390737 02	do.	Village Clerk, Village of Orange, Orange, Ohio No ZIP.	Do.
Do.	Erie	Kelleys Island, village of	H 390738 01 through H 390738 03	do.	Village Clerk, Village of Kelleys Island, Kelleys Island, Ohio 43438.	Do.
Do.	Geauga	Aquilla, village of	H 390739 01	do.	Village Clerk, Village of Aquilla, Aquilla, Ohio No ZIP.	Do.
Do.	Lake	North Perry, village of	H 390742 01	do.	Village Clerk, Village of North Perry, North Perry, Ohio No ZIP.	Do.
Do.	Lorain	Kipton, village of	H 390743 01	do.	Village Clerk, Village of Kipton, Kipton, Ohio 44049.	Do.
Do.	Mahoning	Craig Beach, village of	H 390745 01	do.	Village Clerk, Village of Craig Beach, Craig Beach, Ohio No ZIP.	Do.
Do.	Marion	Morral, village of	H 390746 01	do.	Village Clerk, Village of Morral, Morral, Ohio 43337.	Do.
Do.	Morrow	Edison, village of	H 390747 01	do.	Village Clerk, Village of Edison, Edison, Ohio 43320.	Do.
Do.	Ottawa	Marblehead, village of	H 390748 01	do.	Village Clerk, Village of Marblehead, Marblehead, Ohio No ZIP.	Do.
Do.	Summit	Macedonia, city of	H 390750 01 through H 390750 04	do.	Mayor, City Hall, City of Macedonia, Macedonia, Ohio 44056.	Do.
Do.	Trumbull	Orangeville, village of	H 390751 01	do.	Village Clerk, Village of Orangeville, Orangeville, Ohio 44453.	Do.
Do.	Tuscarawas	Zoar, village of	H 390752 01	do.	Village Clerk, Village of Zoar, Zoar, Ohio 44697.	Do.
Do.	Wayne	Burbank, village of	H 390753 01	do.	Village Clerk, Village of Burbank, Burbank, Ohio 44214.	Do.
Do.	Wood	Portage, village of	H 390754 01	do.	Village Clerk, Village of Portage, Portage, Ohio 43451.	Do.
Do.	Wood	Tontogany, village of	H 390755 01	do.	Village Clerk, Village of Tontogany, Tontogany, Ohio 43065.	Do.
Do.	Wyandot	Marselles, village of	H 390756 01	do.	Village Clerk, Village of Marselles, Marselles, Ohio No ZIP.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Pennsylvania	Bradford	Canton, borough of	H 420109A 01 through H 420109 02	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Borough Secretary, Borough of Canton, 21 Troy St., Box 174, Canton, Pa. 17724.	June 7, 1974. Apr. 18, 1975.
Do	Indiana	Saltsburg, borough of	H 420505 01	do	Mayor, Borough of Saltsburg, 812 Pine St., Saltsburg, Pa. 15681.	Do.
Do	Erie	McKean, township of	H 421019 01 through H 421019 03	do	Chairman Board of Supervisors, Township of McKean, 9084 West Newburg Rd., Fairview, Pa. 16415.	Do.
Do	Bradford	Windham, township of	H 421409 01 through H 421409 09	do	Chairman Board of Supervisors, Township of Windham, Rural Delivery No. 2, Nichols, N.Y. 13812.	Do.
Texas	Archer	Holliday, city of	H 480609 01 through H 480609 02	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Mayor and City Council, City of Holliday, City Hall, Holliday, Tex. 76366.	Do.
Do	Blanco	Johnson City, city of	H 480712 01	do	Mayor and City Council, City of Johnson City, City Hall, Johnson City, Tex. 76036.	Do.
Do	Galveston	Clear Lake Shores, city of	H 485451B 04	do	City Secretary, City of Clear Lake Shores, P.O. Box 75, Kemah, Tex. 77565.	Oct. 23, 1970.
Virginia	Montgomery	Unincorporated areas	H 510099 01 through H 510099 28	Bureau of Water Control Management, State Water Control Board, P.O. Box 11143. Virginia Insurance Department, 700 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Montgomery County Clerk's Office, County Courthouse, Christianburg, Va. 24073.	Apr. 18, 1975.
Do	King William	do	H 510304 01 through H 510304 23	do	County Commissioners, County of King William, County Courthouse, King William, Va. 23060.	Do.
West Virginia	Boone	do	H 540007 01 through H 540007 34	Office of Federal-State Relations, Division of Planning and Development, Capitol Bldg., Room 150, Charleston, W. Va. 25305. Insurance Commissioner, Bldg. No. 3, Room 643, 1800 Washington St., Charleston, W. Va. 25305.	County Commissioners, County of Boone, County Courthouse, Madison, W. Va. 26130.	Do.
Do	Putnam	do	H 540164 01 through H 540164 24	do	County Commissioners, County of Putnam, County Courthouse, Winfield, W. Va. 25213.	Do.
Do	Randolph	do	H 540175 01 through H 540175 09	do	County Commissioners, County of Randolph, County Courthouse, Elkins, W. Va. 26241.	Do.
Wisconsin	Chippewa	Chippewa Falls, city of	H 550044 01 through H 550044 04	Department of Natural Resources, Post Office Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	City of Clerk-Comptroller, City of Chippewa Falls, Chippewa Falls, Wis. 54729.	Do.
Do	Buffalo	Cochrane, village of	H 555550B 01	do	Village Clerk, Village Hall, Cochrane, Wis. 54622.	Feb. 26, 1972.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: March 24, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc. 75-8267 Filed 4-1-75; 8:45 am]

Title 32—National Defense
CHAPTER VII—DEPARTMENT OF THE AIR FORCE
SUBCHAPTER F—AIRCRAFT
PART 856—AIRCRAFT ARRESTING SYSTEMS

This revision of Part 856 changes the symbols of the responsible offices, includes the definitions of the terms, adds information concerning systems installed overseas, and provides additional information and makes minor changes to update and to clarify the part.

Part 856, Subchapter F of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
856.1 Purpose.
856.3 Changing concept on the use of aircraft arresting systems.
856.5 Definitions.
856.7 What systems are authorized.

Sec.
856.9 Authorized use of aircraft arresting systems.
856.11 Pilot responsibilities.
856.13 Use of systems by non-United States Government aircraft.
856.15 Installing a system at a joint-use airport.
856.17 Agreements required for the operation of these systems.
856.19 Letter of agreement with FAA for operating aircraft arresting systems.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

§ 856.1 Purpose.

This part establishes policy on the management and use of aircraft arresting systems.

§ 856.3 Changing concept on the use of aircraft arresting systems.

With the advent of jet aircraft that are equipped with stronger controllable

tailhooks, a change in concept for aircraft arrestment has evolved. At some bases, certain aircraft (for example, the F-4) routinely make operational arrestments under certain adverse weather and runway conditions. This procedure has reduced accidents and incidents resulting from the loss of directional control or braking action. However, aircraft which do not have tailhooks (for example, the T-38) have structural limitations allowing an arresting system only in an emergency stopping situation. Consequently, the Air Force has reviewed its policy on the use of arresting systems to allow for both operational and emergency arrestments. Related policy management and operation of these systems is in the publications listed in paragraphs (a) through (c) of this section.

(a) AFM 88-14, Part 4, Criteria for Airfield Marking. The OPR is HQ USAF, Director of Civil Engineering (PRE).

(b) AFR 60-11, Aircraft Operation and Movement on the Ground or Water. The OPR is HQ USAF, Flight Management Branch, Office of the Deputy Chief of Staff, Plans and Operations. (XOOFSA).

(c) AFM 86-2, Standard Facility Requirements, Basic Item 116-922 Location Criteria. The OPR is HQ USAF, Director of Civil Engineering (PRE).

§ 856.5 Definitions.

(a) *Aircraft arresting system.* A combination of components used to engage an aircraft and absorb its kinetic energy. Each system consists, generally, of an energy absorber and one or more securing or snaring receivers such as hook-cables or pendant-cables attached to a net.

(1) *Aircraft arresting cable (H/C).* A device used to engage hook-equipped aircraft to absorb the kinetic energy of a landing or aborted take-off aircraft.

(2) *Aircraft arresting barrier.* Referred to as a Barrier (BARRIER), a device used to engage and absorb the kinetic energy of a landing or aborted take-off aircraft which is not dependent on an aircraft arresting hook.

(b) *Airfield arresting system complex.* An airfield layout comprised of one or more aircraft arresting systems of the same or different types (see § 856.7(a) for classification of runways).

(c) *Arrestment capable aircraft.* Aircraft which have recognized arrestment procedures in its appropriate flight handbook.

(d) *Cycle time.* The time measured between the engagement of an aircraft with an arresting system and completion of repositioning the arresting system for another engagement. This includes normal inspection and system cooling time according to the appropriate 35E8 Series technical orders.

(e) *Emergency arrestment system (EAS).* Used primarily to prevent damage to aircraft and possible loss of life during an aborted take-off or a landing emergency.

(f) *Energy absorber.* The mechanism through which the kinetic energy of the aircraft is dissipated. Examples of energy absorbers are weights and rotary hydraulic or friction brakes.

(g) *Hook-cable.* A cable or wire rope which is engaged by the arresting hook of an aircraft during an arrestment.

(h) *Location identification.* An arresting system is identified by stating whether it is located on the approach end or the departure end of the runway. (That is, a BAK-12 on the approach end of R/W 36 is on the south end of the runway, and BAK-12 on the departure end of R/W 36 is on the north end of the runway.) Always use the term "approach end" or "departure end" in referring to an arresting system which is installed near the end of a runway.

(i) *Operational arrestment system (OAS).* Generally, a rapid cycle system used to enhance the tactical mission or to avert a possible emergency which may be caused by meteorological conditions, a short runway, or known or suspected aircraft malfunctions.

(j) *Pendant-cable.* A cable or wire rope suspended from the net of an aircraft arresting barrier which engages a structural portion of the aircraft during an arrestment.

(k) *Reset time.* The time required from the beginning of reset operations to make the arresting system ready for another engagement.

§ 856.7 What systems are authorized.

Each runway used by arrestment compatible aircraft should be equipped either with an EAS or an OAS. An additional system (of either type) should also be installed on a runway if the installation's primary mission involves the operation of arrestment capable aircraft, or if the runway's closure (because of an inoperative system) would result in a serious degradation of mission capability. In any case, the development of the airfield arresting system complex should be made with the objective of providing maximum mission capability within the limits imposed by cost-effectiveness. In evaluating the requirement for installing an arrestment system, there are four classes of runways which must be considered in the decision.

(a) *Class A runway.* This runway is intended primarily for operating tactical or training aircraft. For example, a fully developed Class A runway could have the arresting systems in paragraph (a) (1) through (4) of this section.

(1) An arresting barrier at each end, generally located in the overrun, but placed to provide the runout prescribed in AFM 86-2.

(2) A bi-directional emergency arrestment system on each end of the runway, placed 950 to 1500 feet up the runway from the threshold. (This system may also have an OAS capability.)

(3) A bi-directional operational arrestment system placed 1500 to 2500 feet up the runway from the threshold. It must be placed at least 1000 feet from the EAS, but far enough from it to avoid any possible conflict with the runout from the EAS.

(4) An OAS placed at the midpoint of the runway. However, the installation of this additional system must be specifically approved by HQ USAF.

(b) *Class B runway.* A runway that is a prime alternate for a Class A runway. It should have an EAS or OAS 950 to 1500 feet up the runway on each end, as well as a backup EAS in the overrun.

(c) *Class C runway.* A runway that requires only a single EAS capability on each end of the runway for either hook or nonhook equipped aircraft.

(d) *Class D runway.* A runway that does not have an arresting system requirement.

§ 856.9 Authorized use of aircraft arresting systems.

A deviation from the following policy is authorized only when directed by the major command (or his designated representative) because of meteorological conditions, safety of flight, or peculiar operational conditions:

(a) Under normal operations and conditions, unidirectional barrier nets or

arresting cables will be disconnected and, preferably, removed on the approach end of the runway. Aircraft will take off and land toward the most compatible arresting system available; however, tallhook-equipped aircraft will not take off over a raised remote-controlled net barrier if a more compatible arresting system is available (except during cold weather operations). Bi-directional arresting gear will be kept in the ready position on the approach end of the runway, unless directed otherwise by the installation commander and noted in Flight Information Publications (FLIPs).

(b) If aircraft are landing with known or suspected radio failure, the departure end barrier net will be raised (except for B-57 or T-37 aircraft) and the hook-cable positioned for aircraft engagement. Also, the arresting gear at the approach end will be positioned for engagement, unless the aircraft is vulnerable to an inadvertent engagement because of an unguarded tallhook.

(c) If there is no remote control function, or cold weather makes the remote functional unreliable, the arresting net will be raised manually and left in a cocked position on the departure end of the runway.

(d) During ice and snow removal, barrier nets and hook-cables may be removed from the runway, but the runway should be returned to operational status as quickly as possible. Enough of the runway and overruns should be cleared to allow an obstacle-free runout of the arresting system, plus the length of the arrested aircraft.

§ 856.11 Pilot responsibilities.

Each pilot must understand the capabilities and limitations of each arresting system, and how it may affect the operation of his aircraft. Information on the compatibility of these systems should be included in the appropriate flight handbook. In addition, the pilot must:

(a) Determine the status of the arresting system at each base of takeoff and intended landing, as well as any alternate or planned emergency bases, before he begins a flight.

(b) Use the emergency radio phraseology, "barrier, barrier, barrier" or "cable, cable, cable," when emergency conditions require the tower to raise the barrier net or ready a hook-cable for possible engagement of remote controlled systems.

(c) Be aware of the effect of each aircraft configuration on the probability of a successful engagement. He should also be aware of possible damage caused by an inadvertent engagement, landing on, rolling over, or impacting hook-cables or other associated arresting equipment.

§ 856.13 Use of systems by non-United States Government aircraft.

In an emergency, the pilot of these aircraft may, upon request, use the aircraft arresting system at an Air Force base or joint-use airfield in the United States or overseas.

§ 856.15 Installing a system at a joint-use airport.

At a civil airport used jointly by the Air Force and civil agency the procedure for installing an arresting system is:

(a) The responsible Air Force commander notifies the airport manager that the Air Force needs to install an arresting system.

(b) If the airport manager agrees that the system should be installed, the Air Force commander submits the required plans or sketches to the FAA regional office through FAA channels.

(c) If the airport manager of the FAA disagrees with these specifications, the Air Force commander informs HQ USAF/PRE and requests appropriate action to resolve the disagreement.

(d) If an arresting system is required, but the lease does not authorize or prohibits the Government from placing an additional structure on the leased premises, the Air Force commander submits a request to HQ USAF/PRE for action as prescribed by AFR 87-1, Acquisition of Real Property, and attaches a brief statement explaining or quoting the lease restriction.

§ 856.17 Agreements required for the operation of these systems.

(a) *Military rights agreement at an overseas base.* These systems are installed under the military rights agreement with the host government. If a separate agreement is specifically required to install the system, the base commander initiates action to obtain it from the host government. He coordinates these negotiations with the local United States diplomatic representative. If the commander cannot reach an agreement, he notifies HQ USAF/XOOF, requesting action.

(b) *Liability agreements at a joint-use civil airport.* If the Air Force installs an arresting system for the primary use of United States military aircraft at a joint-use civil airport, the FAA acts for, and on behalf of, the Air Force in operating this equipment. However:

(1) Any third-party claim presented for damage, injury or death, resulting from the FAA operation of the system for military aircraft or from the Air Force or Air National Guard maintenance of the system, is the responsibility of the Air Force and is processed under AFM 112-1, Claims Manual (as prescribed for any claim against the Air Force).

(2) A separate agreement between the Air Force and the FAA is not required concerning liability for damage arising from the intentional operation of the system by FAA personnel for civil aircraft, because such claims are the responsibility of FAA.

(c) *Operational agreement with FAA for a joint-use civil airport.* The major commander has authority to negotiate the written agreement for this use, but may redelegate this authority to the base commander. The agreement must decide FAA functions and responsibilities covering the remote control operation of arresting systems by FAA air traffic controllers (see § 856.19).

§ 856.19 Letter of agreement with FAA for operating aircraft arresting systems.

The following operational agreement is entered into between the (FAA office and address) and (designated command) for the operation and use of aircraft arresting equipment installed on (designated runway, airport name and address).

(a) *General provisions.* (1) This agreement governs the use of the arresting barrier (BARRIER), and hook-cable arresting systems for military aircraft and in an emergency for civil aircraft at pilot request.

(2) Automatic aircraft arresting systems can be installed on the runway or in the overrun. The barrier or hook-cable shall be raised or lowered by control tower personnel by a remote control panel in the control tower.

(3) This agreement becomes effective when the tower chief receives notice in writing from the base commander that:

(i) The arresting system has been accepted from the contractor and is commissioned and fully operational, or

(ii) The arresting system is available on a limited basis for emergency use. If the arresting system has not been accepted from the contractor, this notification must be accompanied by a written statement from the contractor authorizing the emergency use of the system, and waiving any claim against the FAA for damage to the system as the result of such use, or

(iii) A NOTAM has been issued specifying conditions in paragraphs (a) (3) (i) and (ii) of this section. Prior to the receipt of the letter from the base commander, the tower arresting system controls shall be de-energized by the military and placarded "INOPERATIVE" by the Chief Controller, and shall not be activated by tower personnel under any circumstance.

(4) When the arresting systems are in commission or emergency use status, as described in paragraph (a) (3) (ii) of this section, controllers shall operate the tower arresting system controls at the request of a pilot of any military aircraft (regardless of the service concerned, type of aircraft, or whether the operation is routine or emergency) and at the request of a civil pilot in an emergency. The tower shall also comply with requests for arresting system operations by a mobile control units, the base operations officer, or his designated representative.

(5) NOTAMS covering operational or outage status of the barrier or hook cable shall be originated by the military. During a NOTAMED outage for repair or maintenance, the tower personnel shall operate the controls provided that the outage NOTAM contains the statement "available for emergency use" and the tower is provided a copy. Otherwise, tower controls shall be de-energized by the military and posed "INOPERATIVE" by the Chief Controller, and shall not be activated by tower personnel under any circumstance.

(6) During the NOTAMED outages owing to failure of tower controls or con-

trol lines to the facility, or upon notification by tower personnel of a malfunction of the arresting system mechanism or remote control system (see paragraph (b) (8) of this section for notice), the military crew at the system site shall have full and final responsibility for operating the arresting device. The arresting system crew shall maintain a listening watch on appropriate air and ground frequencies and have transmit and receive capability with the tower on the ground control frequency in order to keep personnel informed of the position of the system.

(b) *Operations.* (1) Normally, all military aircraft takeoffs and landings shall be made toward an operational arresting system in the appropriate "ready" configuration. It is the pilot's responsibility to request the control tower operator to raise or lower the barrier or hook-cable (NOTE: For normal operations, request to raise the barrier or cable shall be interpreted to mean the runway departure end barrier or cable). Example: "Duluth Tower Joy 32 on base gear down and locked—raise cable." When the pilot advises the control tower that he is ready for takeoff, he shall also request that the barrier or cable be raised. Example: "Duluth Tower Joy 32 ready for takeoff—raise barrier/cable." If an approach end arrestment is desired by the pilot, he must specifically request the approach end cable be raised. Example: "Duluth Tower Joy 32 three mile final gear down and locked—raise cable on approach end of 24." The departure end cable will also be raised as for normal operations.

(2) When the barrier/cable is requested, tower personnel shall advise the pilot of the indicated barrier/cable position when providing takeoff or landing information. Example: Joy 32 cleared for takeoff—barrier/cable indicates up or down.

(3) The barrier/cable operating status may be requested by the pilot at any time.

(4) The barrier/cable controls shall be activated for the down position except when pilots or other authorized personnel request that the barrier/cable be raised.

(5) The tower personnel shall raise the departure end barrier and both approach and departure end barrier and both approach and departure end cables for known or suspected radio failure landings by any military jet aircraft except for B-57, T-37 and large cargo type aircraft C-141, C-5, C-9, and so forth. If there is a doubt regarding the ability of an aircraft to engage a system, the system should be activated.

(6) The standard emergency phraseology for the barrier to be raised to the up position shall be "Barrier, Barrier, Barrier" and for the cable to be raised to the up position shall be "Cable, Cable, Cable."

(7) Tower personnel shall initiate normal crash procedures when an aircraft engages the barrier/cable if these procedures have not previously been initiated.

(8) When there is a malfunction of the barrier or hook-cable mechanism or remote control system, the tower personnel shall notify Base Operations immediately.

Executed at _____
Dated _____

For the Federal Aviation Agency	For the Air Force For the Air National Guard
(Signed) _____	(Signed) _____
(Title) _____	(Title) _____
(Region) _____	(Region) _____
(Address) _____	(Address) _____

By order of the Secretary of the Air Force.

JAMES E. DAGWELL,
Chief, Documentation Management Branch Directorate of Administration.

[FR Doc. 75-8507 Filed 4-1-75; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 380—PUBLIC INVOLVEMENT: GENERAL POLICIES

Policies and Procedures

On January 8, 1975, the Secretary of the Army, acting through the Chief of Engineers, proposed a regulation to provide general policies for public involvement in Corps of Engineers Civil Works planning activities (FEDERAL REGISTER, Vol. 40, No. 5, pp. 1619-1620). A 45-day period was allowed for public comment, closing on February 24, 1975.

No written objections have been received and all comments have been considered. The proposed regulation is adopted, with several editorial changes, as set forth below.

This regulation is effective April 2, 1975.

Dated: March 28, 1975.

CHRISTOPHER P. TATE,
Major, CE, Executive Assistant
to Chief of Engineers.

- Sec. 380.10 Purpose.
- 380.11 Applicability.
- 380.12 References.
- 380.13 Definition.
- 380.14 Basic authorities.
- 380.15 Policy and objective of public involvement.
- 380.16 Public involvement programs.
- 380.17 Documentation of public involvement.
- 380.18 Public involvement and agency coordination regulations.
- 380.19 Responsibilities.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, 10 September 1973.

§ 380.10 Purpose.

This regulation provides general policies for public involvement in Civil Works planning programs.

§ 380.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 380.12 References.

(a) Section 1, Public Law 534, 78th Congress, Flood Control Act of 1944 (58 Stat. 887), December 22, 1944.

(b) Section 1, Public Law 18, 79th Congress, River and Harbor Act of 1945 (59 Stat. 10), March 2, 1945.

(c) Section 2, Public Law 89-80, Water Resources Planning Act (79 Stat. 244), July 22, 1965.

(d) Section 101(b), Public Law 91-190, National Environmental Policy Act of 1969 (83 Stat. 852), January 1, 1970.

(e) Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, 10 September 1973.

(f) AR 340-17.

§ 380.13 Definition.

"Public" is defined as any affected or interested non-Corps of Engineers entity. This includes other Federal, regional, state, and local government entities and officials; public and private organizations; and individuals.

§ 380.14 Basic authorities.

(a) In the referenced authorities, both the Congress and the Water Resources Council have stressed the importance of broad public involvement in Federal water resource planning. The Flood Control Act of 1944 and the River and Harbor Act of 1945 directed the Corps of Engineers to provide to affected States information developed during the course of planning investigations and to consult with the States throughout such studies. In the Water Resources Planning Act of 1965, the Congress encouraged utilization and development of water and related land resources on a coordinated basis by Federal, State and local interests, and established the Water Resources Council as the responsible Federal agency to assist such coordination at the Federal level. More recent legislative and administrative direction on public involvement is embodied in the National Environmental Policy Act of 1969 and the Water Resources Council Principles and Standards. These authorities require Federal planning procedures to be more responsive to increased demands of the public to become more informed and actively involved in water resources management planning and decisions. In essence, these more recent public involvement policies and requirements complement previously established policies and requirements for intergovernmental coordination.

(b) The provisions of 5 U.S.C. 552, commonly referred to as the "Freedom of Information Act", are implemented for the Department of the Army by AR 340-17. Pending issuance of further clarifying instructions by OCE to 5 U.S.C. 552, reporting and reviewing officers are to utilize the guidance provided in the Army Regulation. Questions concerning this Army Regulation should be referred

to HQDA (DAEN-GCK) WASH DC 20314.

§ 380.15 Policy and objective of public involvement.

(a) **Policy.** In consonance with the intent of Congress, it is the policy of the Chief of Engineers that the Civil Works program be conducted in an atmosphere of public understanding, trust and mutual cooperation.

(b) **Objective.** The objective of public involvement is to actively involve the public in water resources studies in order to insure that these studies respond to public needs and preferences to the maximum extent possible, within the bounds of local, state and federal programs, responsibilities and authorities. To accomplish this objective, the Corps of Engineers in its planning programs will:

(1) Open and maintain channels of communication with the public.

(2) Encourage public understanding of federal, state, regional, and local responsibilities, authorities and procedures in conducting water resources planning studies and implementing water resources programs.

(3) Present information which will assist the public in defining its water resources problems, needs, and objectives.

(4) Solicit the public's comments, views, and perceptions of problems, needs, alternative solutions and related impacts, and any recommendation for Federal action, and

(5) Give full consideration to public needs and preferences in the planning process.

(c) **Accomplishment of objective.** The accomplishment of the objective of public involvement is the recognition by the public that study conclusions and selected implementation plans of reporting and reviewing officers adequately considered public views and preferences. The test of public acceptance and other evaluation criteria used to select a plan will be discussed in the 1105-2-200 series of regulations.

§ 380.16 Public involvement programs.

If Corps planning is to be responsive to public needs and preferences, a continuous dialogue between the Corps and the public is required during the planning process. The means to establish this dialogue must be identified early in the planning process, formalized as a specific public involvement program, and implemented by the reporting officer in each planning study. Further explanation of such programs will be included in other 1105-2-800 series regulations as discussed in § 380.18 below. The task of achieving the public involvement objective is not easy. A considerable effort to elicit public views is required, as well as integration of diverse public inputs in the planning and decision-making process. There is no single best approach to achieving the Corps public involvement objective. All affected Corps elements should be committed to ongoing training, monitoring and evaluation in order to develop and employ techniques which will achieve the desired results.

§ 380.17 Documentation of public involvement.

Public involvement programs developed by reporting officers to meet the specific needs of a planning study will be described in the Plan of Study, or other first stage planning document. A summary of public involvement program implementation, including a discussion of how the results of such programs influenced the study conclusions and selected plans, will be incorporated in subsequent planning reports and Statements of Findings.

§ 380.18 Public involvement and agency coordination regulations.

Other regulations will be developed in the 1105-2-800 series to further refine and implement the policies and objective prescribed in this regulation. Several Engineer Pamphlets will be also developed to provide field planners with related information and case studies on conducting effective public involvement programs, with emphasis on communication skills. These regulations will address the following areas:

- (a) Coordination established by legislative and executive authorities, and interagency agreements;
- (b) Requirements and suggested approaches for developing public involvement programs;
- (c) Policies and procedures for public meetings and workshops; and
- (d) Standards for public information brochures, public opinion surveys and public notices.

§ 380.19 Responsibilities.

Public involvement programs for planning studies will be the responsibility of the reporting officer. These programs should be developed, conducted and evaluated jointly by personnel from planning and public affairs elements.

[FR Doc. 75-8566 Filed 4-1-75; 8:45 am]

Title—42

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Nursing Special Project Grants

Correction

In FR Doc. 75-7398, appearing at page 12791, in the issue for Friday, March 21, 1975, make the following corrections:

1. In § 57.1908(d), the first sentence now reading, "Grant funds used for remodeling, alteration, or repairs shall be * * *", should read "Grant funds used for alteration or renovation shall be * * *".
2. In § 57.1909(c) (2) appearing at page 12793, the sentence now reading "There shall be * * *", delete the 7th line, reading "to Subparts F, M, and O of 45 CFR Part", and insert "(ii) any other amounts due pursuant" in its place.

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 151—RIGHT TO READ PROGRAM

Notice of proposed rule making was published in the FEDERAL REGISTER on August 19, 1974 at 39 FR 29929 setting forth proposed regulations governing grants for planning and operating exemplary reading programs which emphasize training and staff development. Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held on October 29, 1974 in Washington, D.C. on the proposed regulations.

A. *Summary of comments; changes in the regulations.* Only two comments were submitted to the Office of Education regarding the proposed regulations.

1. *Comment.* A comment was received suggesting that public school district agencies serving schools in a number of counties be allowed to be eligible applicants.

Response. The proposed regulations limited eligibility to "local educational agencies," a term which was not intended to exclude multi-county school agencies, but which was not defined in the proposed regulations. To clarify the matter of eligibility in accordance with the comment, a definition of "local educational agency" (which is derived from section 801 of the Elementary and Secondary Education Act) is added to § 151.31.

2. *Comment.* A second comment was received suggesting that, in § 151.30(b), successful implementation of any model project is dependent not only upon the teacher, but also "the principal and the substantive knowledge and leadership skills which the principal brings to the school." The comment suggested that training focus on principals as well as teachers.

Response. The Office of Education has expanded the proposed provisions to include training for administrative, as well as teaching, staff.

B. *Other changes.* Adjustments in the weights accorded to the funding criteria have been made.

Assistance provided under this Subpart is subject to the provisions in the governing legislation as well as the applicable provisions of Subpart A of Part 151 of the regulations. Assistance is also subject to applicable provisions of Subchapter A of this Chapter (See, in particular, 45 CFR Part 100a).

After consideration of all comments, Title 45 of the Code of Federal Regulations is amended by revising Part 151 to read as set forth below.

We are providing this final regulation pursuant to the provisions of section 431(d) of GEPA because the proposed regulation for the program had been published prior to the enactment of Pub. L. 93-380 and had not, therefore, been transmitted to the Congress.

Effective date. Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Number 13.533—Right to Read—Elimination of Illiteracy.)

Dated: February 24, 1975.

T. H. BELL,

U.S. Commissioner of Education.

Approved: March 25, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education,
and Welfare.

Subpart C—School-Based Program

Sec.

- 151.30 Scope and purpose.
- 151.31 Definitions.
- 151.32 Criteria for funding.
- 151.33 Funding requirements.
- 151.34 Allowable costs.

Subpart C—School-Based Program

§ 151.30 Scope and purpose.

(a) This subpart governs grants to local educational agencies to plan and operate an exemplary and innovative reading program which emphasizes training and staff development.

(b) The school-based program operates on the premise that the successful implementation of any model project is dependent on all staff members, both teachers and administrators, and the substantive knowledge and skills which they bring to the project. For this reason, the school-based program will focus use of its resources on support of quality staff development activities.

(c) As only one part of the Right to Read program strategy for achieving its ultimate goal of eliminating illiteracy, the school-based program must provide for an effective multiplier potential. The staff development projects supported under this subpart will need to be of such quality that these programs will be sufficiently exemplary to be adopted by other local educational agencies and other schools of the same local educational agency.

(20 U.S.C. 331a(a))

§ 151.31 Definitions.

As used in this Subpart:

"Local Educational Agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or

agency having administrative control and direction of a public elementary or secondary school. As used in this subpart:

"Right to Read school" means a school to be served by a project assisted under this subpart.

(20 U.S.C. 331a(a))

§ 151.32 Criteria for funding.

In addition to the criteria found in § 100a.26(b) of this chapter (300 points), the Commissioner will evaluate grant applications under this subpart according to the following criteria:

(a) (50 points) (1) The extent to which teachers, paraprofessionals, administrators, and librarians to be served by the project will be involved in continuous staff development regarding reading activities conducted within the Right to Read school itself (the best project would involve all of these staff personnel), and (2) the extent to which those activities relate directly to everyday, practical classroom reading activities;

(b) (90 points) The extent to which the project aims at helping these teachers, paraprofessionals, administrators, and librarians in upgrading their competencies in the following skill areas:

(1) Classroom management which minimizes whole-class instruction and maximizes small group and individual instruction;

(2) Effective use of diagnostic and prescriptive reading materials;

(3) Keeping relevant reading records of students;

(4) Use of varied reading instructional techniques;

(5) Systematic planning of sequential reading tasks for students;

(6) Measurement of reading achievement of students;

(7) Measurement of self-competencies in the teaching of reading skills;

(8) Building and using a communication system among these members of the school staff such that continuity is maintained when students move from grade to grade and level to level; and

(9) Training and involving peer students, older elementary students, high school students, college students, parents, and other adults in classroom reading activities;

(c) (25 points) The extent to which the application reflects knowledge on the part of the applicant of recent research and development in the area of reading and staff development;

(d) (25 points) The extent to which the project would address the problem of deficient pupil reading achievement through staff development, using promising planning procedures, implementation techniques and methods, evaluation procedures, and dissemination procedures that are not commonly used in elementary and secondary schools at present;

(e) (50 points) The extent to which the proposed staff development is based on (1) a systematic assessment of the reading needs of the students to be served by the project and (2) a systematic as-

essment of the instructional reading needs of the teachers, paraprofessionals, administrators, and librarians to be involved in the project;

(f) (25 points) The extent to which the project would focus on the development of the existing staff rather than on the employment of new personnel;

(g) (60 points) The extent to which the proposed staff development would be comprehensive, sequential, varied in approaches and continuous;

(20 U.S.C. 331a(a))

(h) (25 points) The extent to which the application:

(1) Sets forth such policies and procedures as will ensure that the project has been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served;

(2) Is submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) Sets forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(20 U.S.C. 1231d)

(i) (25 points) The extent to which the applicant demonstrates that it has been making efforts to improve its reading program through the use of available resources;

(j) (75 points) The extent to which the application contains a detailed plan for (1) testing, evaluating, and disseminating the results of the project; (2) implementing, in the maximum number of schools of the applicant, a system that will make use of the same needs assessment procedures, planning procedures, implementation methods, and evaluation methods as were used at the Right to Read schools; and (3) cooperating with and assisting other local and State educational agencies which wish to adopt those procedures and methods;

(k) (25 points) The extent to which the proposed staff development activities would help staff to understand and assist students in their affective as well as cognitive development with respect to reading; and

(l) (25 points) The extent to which the proposed staff development activities will assist staff (1) in using methods of evaluating student achievement in reading other than by the use of standardized tests and (2) in interpreting standardized test results for staff, parents, and students.

(20 U.S.C. 331a(a))

§ 151.33 Funding requirements.

(a) Projects assisted under this subpart must address the problem of deficient reading achievement of students through activities focused on training and staff development for teachers, administrators, paraprofessionals, and librarians and must be sufficiently exemplary to elicit adoption by other schools.

(b) Assistance under this subpart shall be subject to the following requirements, and each application for assistance under this subpart must describe the proposed activities and provide information adequate to establish that these requirements will be met:

(1) Exemplary planning procedures, implementation techniques and methods, and evaluation and dissemination procedures shall be utilized in the project;

(2) Students whose teachers are involved in the project shall be pre- and post-tested using standardized reading tests; the tests to be used must be identified by name in the application;

(3) The principals of the schools served by the project shall lead in formulating and implementing the project;

(4) The grantee shall appoint a unit task force, consisting of, at least: (i) A representative of the applicant, (ii) a principal, two teachers, a librarian, and a reading specialist of the Right to Read schools, and (iii) two parents. The unit task force shall serve as an advisory body in planning, budgeting, implementing and evaluating the project. The names and signatures of the unit task force members must accompany the application and the application must attest to their participation in the preparation of the application. The unit task force must be equitably representative of the economic, racial, and cultural composition of the student population in the Right to Read schools;

(5) A Right to Read school must have an enrollment which includes a substantial number of students who have serious deficiencies in reading achievement;

(6) The appropriate State educational agency shall be given a reasonable opportunity to review and offer comments on the application prior to its submission to the Commissioner;

(7) The grantee shall disseminate information concerning the project to other local educational agencies and schools, including:

(i) Any new and effective resources which were used in carrying out the project;

(ii) The specific ways in which these resources were used;

(iii) Any problems discovered in the process; and

(iv) Any innovative methods which were used to overcome those problems; and

(8) All staff members to be involved in the project shall be given an opportunity to make recommendations as to the time and location of the activities and the resource persons to be involved in the project.

(c) In selecting applications for funding, the Commissioner will (1) seek to achieve a widespread distribution of Right to Read school-based projects throughout the Nation and (2) select applications which will contribute to the achievement of an ethnic and racial diversity in the population of students involved in the projects assisted under this subpart.

(20 U.S.C. 331a(a))

§ 151.34 Allowable costs.

(a) Allowable costs under grants awarded under this subpart shall be determined in accordance with the cost principles set forth in Appendix B to Subchapter A of this chapter, subject to the following restrictions:

(1) A minimum of 85 percent of the Federal funds provided under the grant shall be used for training or staff development of teachers, paraprofessionals, administrators and librarians in the schools to be served by the project. The remainder may be used for activities such as planning, evaluation, dissemination and parental involvement.

(2) Stipends may be paid to teachers, paraprofessionals, administrators, and librarians when working on staff development activities over and above their forty hour week or during the summer, only when such activities involve a group of four or more persons from the school to be served by the project.

(b) Although there will be no formula for establishing limits to the amount of assistance provided under a grant, it is suggested that the applicant base its total Federal dollar request on an amount not exceeding the product of \$600 multiplied by the number of teachers, paraprofessionals, administrators, and librarians to be involved in the project.

(20 U.S.C. 331a(a))

[FR Doc.75-8464 Filed 4-1-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

Common Carrier Bureau; Reorganization

In the matter of Editorial Amendment of Part 0 of the Commission's Rules to reflect a reorganization of the Common Carrier Bureau.

1. On March 11, 1975 an Order was adopted describing the Office of the Bureau Chief, Common Carrier Bureau. Within that Office an editorial revision is required to change the title of the Administrative Officer to Assistant Chief—Management. Part 0 of the rules and regulations, which describes the organization of the Commission is being amended to reflect this change.

2. The amendment adopted herein pertains to agency organization. The prior notice, procedure and effective date provisions of 5 U.S.C. 553 of the Administrative Procedures Act are therefore inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended and in 0.213(d) of the Commission's rules.

3. In view of the foregoing, it is ordered, effective April 9, 1975 Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307)

Adopted: March 20, 1975.

Released: March 25, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] R. D. LIGHTWARD, Acting Executive Director.

Section 0.93 is revised to read as follows:

§ 0.93 Office of the Bureau Chief.

The Office of the Bureau Chief is composed of the immediate office of the Chief; a Deputy Chief; an Assistant Chief—Management; an Assistant Chief—International Programs; and a Special Projects Staff. They assist the Chief of the Bureau in planning, directing, coordinating, executing and evaluating the functions and programs of the Bureau, and conduct special projects and research efforts in common carrier regulation.

[FR Doc.75-8479 Filed 4-1-75;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-107]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegations to the Federal Highway Administrator

The Purpose of this amendment is to delegate to the Federal Highway Administrator certain functions vested in the Secretary by the Federal-Aid Highway Amendments of 1974 (Pub. L. 93-643, January 4, 1975, 88 Stat. 2281).

Significant changes made by the Act are:

1. Amendments to sections 147 and 165 of the Federal-Aid Highway Act of 1973, dealing with the rural highway public transportation program and transportation for elderly and handicapped persons, respectively;

2. Changes in vehicle weights and sizes (23 U.S.C. 127);

3. Requirements for a permanent uniform national speed limit of 55 miles per hour, 23 U.S.C. 154;

4. Requirements for State certification of enforcement of the speed limit and the limits on vehicle weights and sizes (23 U.S.C. 141);

5. Extension of the carpool demonstration program (Pub. L. 93-239);

6. Changes in the amount of funds available for interstate substitution projects (23 U.S.C. 103(e)); and

7. Establishment of school bus driver training grants (23 U.S.C. 406).

Those sections of the Act which amend existing sections of title 23, U.S. Code or other statutes which have previously been

delegated are subsumed by the existing delegations and do not require additional delegation. A technical amendment is made in the delegations to the Urban Mass Transportation Administrator to reflect amendment of the Federal-Aid Highway Act of 1973.

Chapter 4 of Title 23 incorporates the Highway Safety Act of 1966. Section 126 of the Federal-Aid Highway Act Amendments of 1974 adds a new section 406 to Chapter 4 of Title 23 U.S.C. but does not amend the Highway Safety Act of 1966. Technical changes are made in the delegations to the Federal Highway and National Highway Traffic Safety Administrators to reflect this addition to Chapter 4 of Title 23 U.S.C.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.48, new paragraphs (b) (25), (32) and (33) are added, present paragraphs (b) (25) through (30) are renumbered (b) (26) through (31), and (b) (32) through (37) are renumbered (b) (35) through (40); paragraphs (c) (1) and (15) are revised; paragraph (n) is revised; and a new paragraph (t) is added, to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

(b) Administer the following sections of title 23, United States Code: * * * (25) 141;

(32) 154;

(33) 155;

(34) 201 through 219 (Chapter 2);

(c) Administer the following laws relating generally to highways:

(1) Sections 103, 104, 111(b), 128(b), 131, 133(b), 135, 136, 141, 147 (with the concurrence of the Urban Mass Transportation Administrator), 149, 154, 158, 159, 160, 161, 163, 203, 206, 401, and 402 of the Federal-Aid Highway Act of 1973, as amended (Pub. L. 93-87, 87 Stat. 250; Pub. L. 93-643, 88 Stat. 2281).

(15) Section 3 of the Emergency Highway Energy Conservation Act, as amended (Pub. L. 93-239, 87 Stat. 1046).

(n) Carry out the Highway Safety Act of 1966, as amended (80 Stat. 731), and Chapter 4 of Title 23, United States Code for highway safety programs, research, and development relating to highway design, construction, and maintenance,

traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

(t) Exercise the authority vested in the Secretary by sections 101, 118, 119, 120(b), 123, and 124 of the Federal-Aid Highway Amendments of 1974 (Pub. L. 93-643, January 4, 1975; 88 Stat. 2281).

2. In § 1.50, paragraph (g) is revised to read as follows:

§ 1.50 Delegations to the Urban Mass Transportation Administrator.

(g) Sections 140, 146, 147 (with the concurrence of the Federal Highway Administrator), 164 and 165 of the Federal-Aid Highway Act of 1973, as amended (Pub. L. 93-87, Title I, 87 Stat. 250; Pub. L. 93-643, 88 Stat. 2281).

3. In § 1.51, paragraph (b) is amended to read as follows:

§ 1.51 Delegations to National Highway Traffic Safety Administrator.

(b) Carry out the Highway Safety Act of 1966, as amended (80 Stat. 731) and Chapter 4 of Title 23, United States Code, except for highway safety programs, research, and development relating to highway design, construction, and maintenance, traffic-control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

Effective date. This amendment is effective April 2, 1975.

(Sec. 9(e) Department of Transportation Act (49 U.S.C. 1657(e))

Issued in Washington, D.C., on March 27, 1975.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.75-8449 Filed 4-1-75;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-29; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars; Correction

Correction

In FR Doc. 75-6224 appearing at page 11356 in the issue of Tuesday, March 11, 1975 make the following correction:

In the first column, the bold face section heading four lines from the top should read "§ 571.109".

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 1 to S.O. No. 1198]

PART 1033—CAR SERVICE

Baltimore and Ohio Railroad Co. and Louisville and Nashville Railroad Co. Authorized To Operate Over Tracks of Penn Central Transportation Co., Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees

MARCH 28, 1975.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of March, 1975.

Upon further consideration of Service Order No. 1198 (39 FR 34666), and good cause appearing therefor:

It is ordered, That: Service Order No. 1198 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1198 Service Order 1198.

(a) *The Baltimore and Ohio Railroad Company and Louisville and Nashville Railroad Company authorized to operate over tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, trustees.*

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8552 Filed 4-1-75;8:45 am]

[S.O. No. 1211]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Company Authorized To Operate Over Tracks of Ashley, Drew & Northern Railway Company

MARCH 28, 1975.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of March, 1975.

It appearing, That the Chicago, Rock Island and Pacific Railroad Company (RI), is unable to operate over its line between Whitlow Junction, Arkansas, and Crossett, Arkansas, a distance of approximately 4.7 miles, because of track conditions; that RI operations can be accomplished by use of tracks of Ashley, Drew & Northern Railway Company (ADN), between Whitlow Junction, Arkansas, and Crossett, Arkansas; that the ADN has consented to the use of such tracks by the RI; that the operation by the RI over the aforementioned tracks of the ADN is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1211 Service Order 1211.

(a) *Chicago, Rock Island and Pacific Railroad Company Authorized to Operate Over Tracks of Ashley, Drew & Northern Railway Company.*

(a) The Chicago, Rock Island and Pacific Railroad Company (RI) be, and it is hereby, authorized to operate over tracks of Ashley, Drew & Northern Railway Company (ADN), between Whitlow Junction, Arkansas, and Crossett, Arkansas, a distance of approximately 4.7 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the RI over tracks of the ADN is deemed to be due to carrier's disability, the rates applicable to traffic moved by the RI over the tracks of the ADN shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 28, 1975.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17).

15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8554 Filed 4-1-75;8:45 am]

[Amdt. No. 4 to Rev. S.O. No. 1138]

PART 1033—CAR SERVICE

Colorado and Southern Railway Company Authorized To Operate Over Tracks of the Colorado & Wyoming Railway Company; Colorado & Wyoming Railway Company Authorized To Operate Over Jointly Owned Tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of March 1975.

Upon further consideration of Revised Service Order No. 1138 (38 FR 14943, 33482, and 39 FR 12352 and 35174), and good cause appearing therefor:

It is ordered, That: Revised Service Order No. 1138 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1133 Service Order 1138.

(a) The Colorado and Southern Railway Company authorized to operate over tracks of the Colorado & Wyoming Railway Company. The Colorado & Wyoming Railway Company authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company. * * *

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8553 Filed 4-1-75;8:45 am]

PART 1033—CAR SERVICE

[Amdt. No. 1 to S.O. No. 1203]

Penn Central Transportation Co., Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, Authorized To Operate Over Tracks of the Philadelphia Belt Line Railroad Co.

MARCH 28, 1975.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of March 1975.

Upon further consideration of Service Order No. 1203 (39 FR 42367), and good cause appearing therefor:

It is ordered, That: Service Order No. 1203 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1203 Service Order 1203.

(a) Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, authorized to operate over tracks of the Philadelphia Belt Line Railroad Company. * * *

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., July 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8551 Filed 4-1-75;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—FISH AND WILDLIFE SERVICES, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Kirwin National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on April 2, 1975.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Sport fishing on the Kirwin National Wildlife Refuge, Kansas, is permitted during 1975 in accordance with state regulations, on all areas not designated by signs as closed to fishing. These open areas, comprising 5,000 acres, are delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kansas, and from the Regional Director, Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge,
Kirwin, Kansas.

MARCH 12, 1975.

[FR Doc.75-8440 Filed 4-1-75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

NATIONAL BANKS PROVIDING TRAVEL SERVICES

Proposed Functions of Banks

On December 21, 1973, this office published in the FEDERAL REGISTER, 38 FR 35023, a notice that it was considering revising its Interpretive Ruling 7.7475 entitled "National Banks Acting as Travel Agents." The December 1973 notice referred to the decision of the U.S. Court of Appeals for the First Circuit in the case of *Arnold Tours, Inc. v. Camp* to the effect that I.R. 7.7475 was "invalid to the extent that it is construed by the Comptroller as authorizing a national bank to operate a full-scale travel agency." Since the court's decision did not define the term "full-scale travel agency", and in view of the controversy surrounding the matter, the office solicited comments from all interested parties as to the proper definition of the term "full-scale travel agency."

Many comments were received from banks and independent travel agents on the matter. After careful consideration of all of these comments and after our own analysis of the *Arnold Tours* decision, a revised Interpretive Ruling 7.7475 has been drafted. The revised interpretation states that national banks are without power to operate full-scale travel agencies but may, in the Comptroller's opinion, continue certain travel related activities, such as making travel loans, selling travelers' checks, foreign currency, letters of credit, transportation tickets and providing free travel information. Activities deemed to be prohibited would include travel promotion, soliciting travel business from the public at large, and organizing or planning individual or group trips.

Comments on the proposed interpretation should be submitted in writing to Robert Bloom, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, to be received by May 1, 1975. Such material will be made available for inspection and copying upon request, except as provided in § 4.16 (b) as amended 40 FR 7337, February 19, 1975, of the Comptroller's rules regarding the availability of information.

The proposed revised Interpretive Ruling § 7.7475 reads as follows:

§ 7.7475 National banks providing travel services.

(a) A national bank may not operate a full-scale travel agency. However, national banks historically have provided

and may continue to provide services related to travel which are either expressly permitted or are incidental to the business of banking. Such services may include the following: making travel loans, providing travel information, acting as collection agent for a steamship, railroad, airline or other company, selling travelers' checks and foreign currency, and issuing letters of credit.

(b) Travel services provided pursuant to paragraph (a) should be provided principally to serve bank customers, subject to the prohibitions of 12 U.S.C. 1972 against tie-ins. Thus, a national bank should not hold itself out as operating a full-scale travel agency or offering all services available from a travel agent, and advertising of bank travel services should be limited to on-premises displays, mailings to existing bank customers and inclusion in advertisements of other bank services.

(c) A national bank may not invest its own funds in an inventory of tickets, tours, or accommodations for the purpose of reselling them to the public or otherwise undertake any financial risks in the provision of travel services other than the normal risks inherent in bank agency, safekeeping and lending functions.

Dated: March 28, 1975.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc. 75-8537 Filed 4-1-75; 8:45 am]

Internal Revenue Service

[26 CFR Part 1]

SEPARATE LIMITATION ON FOREIGN TAX CREDIT IN CASE OF DIVIDENDS FROM A DISC OR FORMER DISC

Proposed Rule Making

Correction

In FR Doc. 75-5091 appearing in the issue of Thursday, February 27, 1975, make the following corrections:

1. In § 1.78-1(f) on page 8351 the 1st line should read "(f) *Illustrations*. The application of this . . .".

2. In § 1.904-1(a) on page 8352 the 13th line should read ". . . crued other than by reason of section 904 . . .".

3. In § 1.904-4(d)(1)(i)(b) on page 8353 the last line should read ". . . paragraph (d)(1)(i)".

4. In § 1.904-4(d)(1)(ii)(b) the last line should read ". . . paragraph (d)(1)(ii)".

5. In § 1.904-4(d)(1)(iii)(b) on page 8353 the last line should read ". . . (d)(1)(iii) of this section".

6. In the undesignated paragraph following § 1.904-4(d)(1)(iii)(b) the reference in the last line should read "(d)(1)(iii)".

7. In the undesignated paragraph following § 1.904-5(b)(1)(i)(B) on page 8355 the reference in the 2d line of column one should read "(b)(1)(i)".

8. In the undesignated paragraph following § 1.904-5(b)(1)(ii)(B) the reference in the last line should read "(b)(1)(ii)".

9. In the undesignated paragraph following § 1.904-5(b)(1)(iii)(C) the reference in the last line should read "(b)(1)(iii)".

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ATLANTIC BLUEFIN TUNA

Proposed "Threatened" Status

MARCH 25, 1975.

The Director, National Marine Fisheries Service, in consultation with the Director, United States Fish and Wildlife Service, hereby issues a notice of proposed determination, pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et. seq., that Atlantic bluefin tuna (*Thunnus thynnus thynnus*), indigenous to the Atlantic Ocean, is a threatened species. Proposed rules, procedures, and measures to conserve and manage this species will be published shortly in 50 CFR Part 227.

Background. The status and welfare of the Atlantic bluefin tuna stock has been the subject of discussion domestically and internationally in several forums in recent years. It is currently the subject of an intense scientific investigation in the Northwestern Atlantic by the National Marine Fisheries Service. The scientific consensus from these discussions and preliminary findings of the studies is that the data presently available are inadequate to positively determine the status of the Atlantic bluefin tuna stocks, but the data convincingly indicate that adult (or spawning) Atlantic bluefin tuna stocks are substantially reduced in number from previous years. The ongoing scientific studies will eventually supply information needed to determine the sustainable level of harvest. However, in the meantime, proper management requires that steps be taken to assure that spawning stocks will not be reduced to the extent that recruitment of small fish would be adversely affected.

Summary of recent actions and recommendations. In 1974 the National Marine

Fisheries Service, in cooperation with Canada, the eastern coastal States, academia and commercial and recreational fishing groups, commenced a comprehensive scientific study and stock sampling program on the Atlantic bluefin tuna found adjacent to the Atlantic coast of the United States. The broad goals were (1) to determine the status of the stocks, (2) to identify the effects of fishing thereon, and (3) develop a suitable management program. This study was predicated on the need to acquire information necessary to develop a sound management program for proper protection of this important commercial and recreational species.

Additionally in 1974, the National Marine Fisheries Service met with appropriate Canadian fisheries officials for the purpose of developing an international research program and implementing immediate conservation measures, which included a voluntary management program. Meetings were also held with state management agencies and conservation organizations to coordinate such voluntary regulatory actions. The National Marine Fisheries Service then prepared and published in the *FEDERAL REGISTER* (39 FR 22444) on June 24, 1974, voluntary guidelines for persons subject to the jurisdiction of the United States fishing for Atlantic bluefin tuna. These guidelines relate to conservation measures required to maintain the Atlantic bluefin tuna stocks with a view toward preserving recreational opportunities for marine anglers and maintaining a viable commercial industry.

The United States Delegation to the International Commission for the Conservation of Atlantic Tunas (ICCAT) proposed bluefin tuna conservation measures at the Annual Meetings in 1973 and again in 1974. The 1974 recommendations were discussed extensively by the scientific committee of ICCAT, the Standing Committee on Research and Statistics (SCRS). This committee, after carefully reviewing the scientific information available considered two management actions: (1) Short-term reduction of fishing intensity on giant fish, to protect spawning fish, and (2) long-term reduction in purse seine fishing of young fish to permit escapement of maturing fish. These general recommendations were further refined to describe specific actions that must be taken. The resulting recommendations of the Commission were sent to member countries for a mail vote. These recommendations read as follows:

First. That the Contracting Parties take the necessary measures to prohibit any taking and landing bluefin tuna (*Thunnus thynnus thynnus*) weighing less than 6.4 kg.

Notwithstanding the above regulation, the Contracting Parties may grant tolerances to boats which have incidentally captured bluefin weighing less than 6.4 kg., with the condition that this incidental catch should not exceed 15 percent of the number of fish per landing of the total bluefin catch of said

boats or its equivalent in percentage by weight.

Second. That as a preliminary step, the Contracting Parties that are actively fishing for bluefin tuna (*Thunnus thynnus thynnus*) or those that incidentally catch it in significant quantities shall take the necessary measures to limit the fishing mortality of bluefin tuna to recent levels for a period of one year.

The Executive Secretary of ICCAT notified all member countries by letter dated February 7, 1975, that a majority of ICCAT member countries replied in favor of these recommendations. Therefore, in accordance with Article VIII(2) of the Convention, the referred recommendations will enter into effect for all member countries on August 10, 1975. However, if any contracting government presents to the Commission an objection to the recommendation within this six-month period, the recommendation will not become effective for an additional sixty days.

The need for immediate conservation measures has also been conveyed to the National Marine Fisheries Service by interested individuals and conservation organizations in response to a *FEDERAL REGISTER* notice of July 12, 1974 39 FR 25677.

The Sport Fishing Institute responded that the best available scientific information indicates that the bluefin tuna stocks of the North Atlantic are in so depleted a state as to threaten endangerment of the species, unless effective regulatory action is invoked to control harvest at levels significantly below those of recent record. A resolution has been received from this organization specifically requesting that the Atlantic bluefin tuna be declared a threatened species under the Endangered Species Act of 1973. An additional letter of August 19, 1974, urged that the species be officially classified as "threatened" in order that an adequate regulatory mechanism may be invoked and the species prevented from declining further to the endangered status.

Mr. Frank Mather of the Woods Hole Oceanographic Institution has repeatedly expressed his concern for the status of Atlantic bluefin tuna and feels strongly that if present trends in the bluefin stocks continue, we will be faced with a most serious situation on an ocean wide basis.

The International Game Fish Association has written and recommended that "Unless a satisfactory conservation policy can be established for the year 1975 and sufficient authority be given to your agency to enforce this policy, then there is a good case for having this species declared as a threatened species."

Response from The Emergency Committee to Save America's Resources requests that the bluefin tuna be declared an "Endangered Species," seining eliminated and sportfishermen restricted to very moderate catches.

The Department of Environmental Conservation of the State of New York has written and urged that Atlantic bluefin tuna be declared a threatened species.

Proposed action. The Endangered Species Act of 1973 authorizes the Secretary, by regulation, to determine whether any species is endangered or threatened because of, among other things, the inadequacy of existing regulatory mechanisms. Since at this time there are no regulatory mechanisms, even though shown and recognized to be necessary, it is accurate to say that existing regulatory mechanisms are inadequate within the meaning of section 4(a)(1)(4) of the Act (16 U.S.C. 1533(a)(1)(4)). Therefore, the Director proposes to determine that the Atlantic bluefin tuna is a "threatened" species in the North Atlantic Ocean, and add it to the threatened species list under Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations. The National Marine Fisheries Service has under preparation an environmental assessment of this subject. An inflationary impact statement was considered but determined not necessary.

Interested persons may participate in this rulemaking process by submitting written comments, views or objections on this proposed determination on or before June 2, 1975. Further, any persons who feel that they may be adversely affected by this proposed determination may file, on or before May 19, 1975, objections thereto and request a public hearing thereon. Said comments, views, objections, or requests for a public hearing shall be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: March 28, 1975.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

JACK W. GEHRINGER,
Director, National Marine
Fisheries Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations to add a new § 17.33 "Threatened Species-Fish" as follows:

§ 17.33 Threatened species—fish.

(a) Marine:

Common name	Scientific name	Range	Portion of range where threatened
(1) Atlantic Bluefin Tuna.....	<i>Thunnus thynnus thynnus</i>	Atlantic Ocean.....	Atlantic Ocean

[FR Doc.75-8453 Filed 4-1-75;8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1033]

[Docket No. AO-166-A46]

MILK IN THE OHIO VALLEY
MARKETING AREARecommended Decision and Opportunity
To File Written Exceptions on Proposed
Amendments to Tentative Marketing
Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Ohio Valley marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, on or before April 17, 1975. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Columbus, Ohio, on November 7-8, 1974, pursuant to notice thereof which was issued October 16, 1974 (39 FR 37502).

The material issues on the record of the hearing relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Classification provisions.
4. Adoption of a single butterfat differential.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Considering Class II and Class III transfers from a supply plant as a receipt at a distributing plant in determining such distributing plant's pool status.* No change should be made in the distributing plant pooling standards on the basis of this record. However, the procedure for pooling supply plants should be modified to establish a demonstrated bona fide relationship of any supply plant with the fluid market rather than basing pooling qualifications on shipments (which could be exclusively for Class II or Class III use) to pool distributing plants.

Under the existing order, a pool distributing plant must have at least 15 percent of its overall route disposition in the marketing area and its total monthly route disposition must be at least 50 percent (45 percent in March-August) of its overall receipts (including milk diverted from such plant but excluding bulk fluid milk products received by transfer or diversion from other plants as Class II or Class III milk).

As proposed by a federation of cooperatives representing the majority of producers, the overall receipts at the distributing plant to be counted for determining such plant's pool status would be expanded to include all Class II and Class III transfers from supply plants to such distributing plant.

Proponent cooperatives contended that the present pooling provisions constitute a loophole whereby large quantities of milk not associated with the fluid market could be attached to the pool through the receipt and transfer of milk through a supply plant(s) under a requested Class II or Class III classification.

Their proposal was opposed by one cooperative and by a proprietary supply plant operator. The opposing cooperative's spokesman stated that if the proposal were adopted, certain distributing plants, in order to insure continuing pool status, might find it necessary to reduce milk receipts from supply plants. The affected supply plants, in turn, might have to reduce receipts from dairy farmers in order to meet the minimum shipping requirements. The Spokesman contended that this chain reaction would force this milk to move to balancing plants operated by the proponent cooperatives, which are pooled under standards different from those applicable to regular supply plants. This, he contended, would not be appropriate.

The proprietary handler's opposition centered on the effect adoption of the proposal would have on his total operation. This handler operates one pool supply and six pool distributing plants. One of such distributing plants has substantial capacity to manufacture nonfat dry milk, and at times it has been necessary to utilize this capacity when the supply plant (also a manufacturing plant) could not physically handle all the milk associated therewith and not needed for fluid use. The handler contended that adoption of the proposed change would make it difficult to maintain continuing pool status for the supply plant and/or the distributing plant with manufacturing operations. As a result of actions taken in this decision, the likelihood that a supply plant would lose pool status in such a situation is minimized.

While the present pooling provisions could be used to pool almost unlimited volumes of milk through supply plant operations which have no direct association with the fluid market, it is not apparent that there has been any abuse of the order through this means. Nevertheless, to protect the integrity of regulation, it is desirable that the order be modified to deter such end.

The present performance standards for pooling distributing plants recognize the fact that some distributing plants in this market, which are primarily fluid milk operations, nevertheless operate substantial manufacturing facilities and therefore, on occasion, may receive milk from other plants for manufacture. In order that such receipts may not jeopardize such a distributing plant's pooling status, and at the same time to accommodate the use of the plant's manufacturing facilities, receipts by transfer from other plants under an agreed Class II or Class III classification are not counted in determining such plant's pooling status. If, as proposed by cooperatives, supply plant milk designated for manufacturing uses was included as a receipt in determining such a distributing plant's pool status, the pooling status of certain distributing plants that have been regularly pooled, and which provide a service to the market in handling reserve milk supplies, might be jeopardized. Loss of pooling status would have serious adverse effect on dairy farmers regularly supplying such plants with milk for fluid use.

The problem proponents seek to resolve (i.e., potential dilution of pool proceeds by the pooling of milk intended solely for manufacturing use), therefore, can best be resolved under the conditions existing in this market by modification of the supply plant rather than the distributing plant pooling standards.

To protect the integrity of regulation, it is desirable that supply plant milk be required to more adequately demonstrate association with the fluid market to qualify for pooling. This may be accomplished by requiring that pooling status for a supply plant be conditioned on making the prescribed percentage of shipments to a pool distributing plant(s) which has total route disposition of at least 50 percent (45 percent in March-August) of overall receipts (including milk diverted from such plant but excluding bulk fluid milk products received by transfer or diversion from pool distributing plants under an agreed Class II or Class III classification). Route disposition in the marketing area by the supply plant would continue to be added to its qualifying shipments to pool distributing plants for the purpose of determining whether the supply plant met the performance standards for pooling.

Under this procedure a supply plant could conceivably ship all of its receipts to a pool distributing plant and yet fail to qualify because part or all of such shipments were made under an agreed upon Class II or Class III classification and the inclusion of such transfers in the distributing plant's receipts (for the purpose of determining the supply plant's pool status only) resulted in a route disposition percentage less than the prescribed minimum. Such resulting non-pool status for the supply plant could not be construed as inappropriate since it would be a direct manifestation of such plant's insufficient association in supplying the needs of the fluid market. If a

supply plant should fail to qualify for pooling receipts from such plant at any pooling receipts from such plant at any source receipt.

Under certain conditions, notwithstanding, a supply plant regularly associated with the market as a pool plant should be allowed to pool for the first subsequent month in which it fails to qualify as a pool plant. Without such a provision, a supply plant could unexpectedly lose pool plant status for the month because of an unforeseen precipitous decline in Class I utilization at a distributing plant that received milk from the supply plant. In that circumstance, the milk of dairy farmers who delivered to the supply plant during the month would not qualify for pooling. Although such an occurrence admittedly should be infrequent, to insure orderly marketing a reasonable safeguard should be provided against loss of pool participation by the supply plant and its dairy farmer patrons. This appropriately can be achieved by according continued pooling for one month to a supply plant which has demonstrated a sustained association with the fluid market but which failed to meet the pooling requirements for such month solely because the pool distributing plant(s) to which it made qualifying shipments did not meet the route distribution requirements with respect to specified overall milk receipts.

Continued pool status should be accorded a supply plant for any month in which it failed to qualify as a pool plant if (1) its failure to qualify was due solely to the fact that the distributing plant(s) to which it made qualifying shipments failed to meet the minimum route distribution requirements with respect to its overall milk receipts (exclusive of receipts from pool distributing plants under an agreed upon Class II or Class III classification); and (2) it was a pool supply plant on the basis of performance in each of the immediately preceding three months.

Allowing a supply plant to retain pool status for one month, as herein provided, will protect the "producer" status of its dairy farmer patrons when such plant inadvertently fails to qualify for pooling solely because the distributing plant it regularly supplies did not perform as expected. With the safeguards here provided, one month's continued pool status for a supply plant will afford reasonable protection to supply plants associated with the market while precluding exploitation of the provision by other supply plants.

(b) *Designating a distributing plant as a pool plant for the month based on its performance in preceding months.* A distributing plant that failed to meet the total route disposition percentage pooling requirement should be allowed to be a pool plant for the month if it met such percentage requirement in each of the immediately preceding three months.

To qualify as a pool plant for the month, at least 15 percent of a distributing plant's route disposition must be in the marketing area and its total monthly

route disposition must be at least 50 percent (45 percent in March-August) of specified receipts. A distributing plant that failed to meet the total route disposition percentage requirement in any month may nevertheless be pooled for such month if it had been pooled in the preceding month by virtue of having met such performance requirements.

A federation of cooperatives proposed to allow pool plant status for the month for a plant that failed to meet the total route disposition percentage requirement only if it had been pooled as a distributing plant in each of the preceding 12 months. The cooperatives contended the 12-month requirement would demonstrate not only appropriate market association of the distributing plant but also would prevent a handler from using the provision to load the pool with large quantities of milk that are not a regular and dependable supply for the market. Further, they contended that assurance to dairy farmers that their milk would be pooled in a month in which the plant to which their milk was delivered failed to meet the performance requirements was appropriate only under circumstances where such plant's failure to meet the total route disposition requirement for pool status was inadvertent. This, they held, was the intent of their proposed 12-month requirement.

The proposal was opposed by proprietary handlers. The principal basis of the opposition was that the present provision is needed to provide their producer patrons assurance of pool status for their milk in the event of a sudden loss of Class I sales, plant strikes, fire, or other catastrophes that may result in a distributing plant's unanticipated failure to qualify for pooling in any given month.

One opposing handler, who operates six distributing plants in the market, stated that only through the present provision had he been able to keep all his distributing plants pooled. He pointed out that one of his distributing plants produces cottage cheese and other Class II products for his other distributing plants in Ohio. By assignment of particular loads of milk to different plants at different times he was able to keep all the plants qualified as pool distributing plants. A spokesman for this handler cited two instances involving loss of sales contracts that would have caused plants to lose pool status if the provision that allows continued pooling for one month had not been applicable.

This same handler suggested that if the proposed changes were adopted, a proviso should be added to provide that all distributing plants operated by a handler be considered as one plant for the purpose of meeting the total route disposition percentage pooling requirement.

A proposed provision for unit pooling was denied in the 1970 decision that resulted in the merger of five orders into the present Ohio Valley order. It was denied on the basis that such a provision accommodates only a multiple plant operation and does not give recognition to single plant fluid milk operations that

also process a relatively large amount of milk for other uses.

The current request for unit pooling was premised on adoption of the proposal to require a 12-month period of prior performance to obtain automatic pool status for one additional month. That proposal is not adopted in this decision. Moreover, this record contains no showing of changed market conditions to provide a basis for reversing the findings in the 1970 decision denying the proposal for unit pooling.

As an alternative to unit pooling, the multi-plant handler proposed lowering the total route disposition percentage pooling requirements from 50 percent to 45 percent in September-February, and from 45 percent to 40 percent in March-August. The handler contended that such action is warranted because of the decline in Class I sales.

Aside from the general statement that Class I sales in the market had declined, no specific testimony was presented to show that the present route disposition requirements are inappropriate and should be changed. Therefore, no action should be taken on proposals advanced at the hearing to change the route disposition percentage requirements for pooling distributing plants.

Producers should have protection against unexpected loss of pool participation of their milk because a distributing plant, over which they have no control, failed to qualify as a pool plant. The present provision, which allows pool status for the month to a distributing plant that met the required total route disposition percentage the preceding month, provides such protection. It also allows a distributing plant operator flexibility in adjusting his operation to meet changing market situations without losing pool status for the month.

However, the present provision provides an "open door" whereby a system of distributing plants may be pooled by adjusting receipts as between plants to the end that each plant individually meets the pooling requirements on at least an every-other-month basis. This is because a distributing plant may be pooled on a year-round basis by meeting the total route disposition percentage requirement for pooling every other month. In other months the plant has pool status without meeting the performance standards and could pool additional quantities of milk for manufacturing uses. Since this milk would share in the pooled proceeds, the market's Class I use value would be spread over a larger volume of milk. This would lower the marketwide "blend" price, thus diluting returns to those producers regularly supplying milk for the market's fluid needs.

The cooperatives' proposal to provide pool status for the month to a distributing plant based on its route disposition performance in the preceding 12 months would substantially reduce the level of protection now provided producers. Moreover, substantial changes in operations might be required by some

handlers in order to maintain pool status for their plants.

Allowing a distributing plant that failed to meet the total route disposition percentage pooling requirement to be a pool plant for the month if it met that requirement in each of the three preceding months, as adopted in this decision, is a reasonable and equitable basis to qualify a plant for pooling under current conditions in the Ohio Valley market. As such, it will contribute to orderly marketing by providing a safeguard against exploitation of the order by pooling milk from farms that are not a regular part of the market supply and by protecting, in a reasonable manner, producers regularly supplying the market from losing the benefits of pooling under the order because of the unanticipated loss of pool plant status by the plant to which their milk is customarily delivered.

In the absence of unit pooling, the provision adopted herein for continued pool status for one month based on three months prior performance is applicable to each distributing plant operated by a multi-plant handler. With present provisions for diverting milk to pool plants, a multi-plant handler should continue to have short-term pooling flexibility sufficient to maintain pool status for his plants without making major adjustments in his total operation.

(c) *Automatic pooling in March-August for a supply plant that was a pool plant in preceding September-February.* A supply plant that was a pool plant throughout the preceding September-February period and which transferred at least 50 percent of its monthly receipts to pool distributing plants in each month of the period should be accorded pool plant status in the following March-August.

Under the existing order provisions, a supply plant may qualify as a pool plant in any month that its transfers to pool distributing plants plus direct route disposition in the marketing area is at least 50 percent of its receipts. Automatic pooling is provided during the March-August period for any supply plant that was a pool plant in the preceding months of September-February.

A pool distributing plant by definition is also a supply plant in any month in which it makes even a token shipment to another pool distributing plant. As a supply plant, which was a pool plant in each of the months of September-February, such a plant in fact acquires automatic pool plant status in the following March-August.

Cooperatives contended that the automatic pooling thus made available for pool distributing plants was inadvertently provided for in the order, and is not an appropriate basis for pooling a distributing plant. They urge that route dispositions not be counted for the purpose of determining the qualification of a supply plant for automatic pooling status.

Because a distributing plant typically serves the market in a different manner than does a supply plant it is necessary

that they be accorded different treatment in determining their pooling qualification. The pooling qualifications for a distributing plant are based solely on (1) its route disposition in the marketing area relative to its total route disposition and (2) the total route disposition from the plant relative to its receipts.

Since Class I sales in the market are relatively uniform throughout the year, it is not necessary nor appropriate to provide automatic status for pooling distributing plants during the flush months. Except under the special circumstances hereinbefore provided for continuing pooling status for a distributing plant for one month if it fails to meet the minimum route disposition requirements, no further accommodation for pooling is appropriate. A plant with route disposition of less than 45 percent of its receipts during the flush production months cannot be considered to be sufficiently associated with the fluid market to merit sharing the Class I proceeds of the total market.

A supply plant serves the market by making its milk supply available when needed to meet the varying demands of pool distributing plants. The demand for milk from supply plants is greatest in the fall and winter months of seasonally low production. Pool distributing plants' needs for milk from supply plants is substantially diminished and may be non-existent in some of the spring and summer months of seasonally high production.

Providing automatic pool status in March-August for a supply plant which qualified for pooling in the preceding September-February by its shipments to pool distributing plants (1) assures the dairy farmers who have established their association with the fluid market by supplying a pool supply plant during the short season that the milk will continue to be pooled during the flush and (2) avoids uneconomic shipments from supply plants to pool distributing plants during the months of seasonally high production solely for the purpose of maintaining pool status.

(d) *Balancing plant.* No change should be made in the shipping requirements for pooling the "balancing plant" of a cooperative. However, the provision for pooling such a plant should be modified to require that the plant have manufacturing facilities and actually processes milk during the month.

A plant other than a distributing plant may now qualify for pooling as a balancing plant if it is operated by a cooperative, is approved by a duly constituted health authority to handle milk for fluid consumption, and more than 50 percent of the cooperative's members' producer milk was received at pool distributing plants during the month, either by direct delivery from the producers' farms or by transfer from the cooperative's plant. Two balancing plants currently qualify as pool plants under the order.

A federation of cooperatives, including the two cooperatives whose balancing

plants now qualify as pool plants, proposed changing the qualifications for pooling a balancing plant. During the months of September through March, proponents would require that not less than 65 percent of a cooperative's members' producer milk be received at pool distributing plants either by direct delivery from producers' farms or by transfer from such cooperative's plant. In addition, these cooperatives proposed that a balancing plant, to qualify for pooling, be required to have combined receipts from and sales to plants regulated by the Ohio Valley order that are greater than the sales from such plant to all other plants.

Proponent cooperatives claimed the more rigid standards for pooling a balancing plant that they proposed are desirable and necessary to avoid possible dilution of the pool by the pooling of plants that are not a regular part of the market supply.

A cooperative that qualified a plant for pooling as a balancing plant in January and February 1974 opposed changing the present pooling qualifications for a balancing plant. It took the position that the proposed changes were aimed at making it more difficult to qualify its plant for pooling as a balancing plant and would preclude a cooperative that did not operate a manufacturing plant from pooling a plant other than a distributing plant.

Balancing plants traditionally operated by cooperatives in this market provide the means whereby proprietary plant operators may adjust their receipts each day to fit their bottling needs and at the same time have assurance that milk not accepted will be available for fluid use as needed. A bottling plant that receives milk by direct delivery from the farms of designated producer members of a cooperative may accept a part or none of such deliveries on any day. The total deliveries of such producers on the days the bottling plant is not operated, and the amount in excess of its Class I needs on other days, may be received at the cooperative's manufacturing (i.e., balancing) plant. Providing pool status for the balancing plant enhances market stability and efficiency and implements the pooling of the milk which is regularly and substantially associated with the market.

The requirement that a cooperative that operates a balancing plant must have supplied to pool plants of other handlers more than half its members' producer milk pooled during the month insures that the cooperative's pooled milk is substantially associated with the fluid market. Any limitation on the quantity of milk that a balancing plant may dispose of to plants outside the market, without losing its status as a pool plant, as suggested by proponents, would tend to reduce the flexibility of marketing inherent in the operation of balancing plants for the Ohio Valley market and could severely restrict the ability of the cooperatives to market the reserve milk supply in the most remunerative outlets.

The outlets for the reserve milk supplies handled at balancing plants frequently may be plants outside the market. Consequently, to require that a plant that otherwise qualified as a balancing plant must have combined receipts from and sales to plants regulated by the Ohio Valley order that are greater than sales to other plants in the same month could unnecessarily restrict the operations of a balancing plant and adversely affect the economic handling of the market's reserve supplies.

Although proponent cooperatives proposed increasing the quantity of member producer milk that must be received at pool distributing plants of other handlers during the month (either by direct delivery from producers' farms or as transfers from a cooperative's plant) from 50 percent to 65 percent to qualify the balancing plant as a pool plant in September-March, it was not shown that the proposed change would achieve any purpose not now realized by the 50 percent requirement. As indicated above, under current conditions in the Ohio Valley market, if more than half the producer milk of a cooperative is utilized at pool plants of other handlers, an association with the market has been reasonably established and an appropriate safeguard is thereby provided against pooling under the order of cooperative plants that are not an integral part of the market.

A major concern of proponent cooperatives was that a balancing plant operated by a cooperative should perform a discernible service to the market in which it is pooled. Evidence of a discernible service to the market can be most appropriately manifested, under the conditions existing in this market, through a requirement that a cooperative operated plant, as a condition of pooling as a balancing plant must have manufacturing facilities which are actively operated during the month processing fluid milk products into a manufactured milk product(s).

A plant without processing facilities cannot service the market in a meaningful way except in the role of a supply plant. A plant without processing facilities accordingly should be required to meet the shipping requirements for pooling as a supply plant. These requirements as hereinbefore modified provide the appropriate means for pooling plants the basic function of which is to receive and transfer milk.

(e) *Deletion of the pool plant provision applicable only to Ohio State University.* The provision that allows a distributing plant with route disposition only on the campus of the Ohio State University at Columbus, Ohio, to qualify as a pool plant for the months other than January, February, October, and November, without meeting the total route disposition percentage requirement, should be removed from the order.

A proposal to delete the provision, which no longer has any application in the Ohio Valley market, was submitted by a federation of cooperatives and was

not opposed. There is not, at this time, any plant operating under the limited disposition requirement specified in the provision.

Deletion of the provision will not adversely affect any handler now regulated. Moreover, it is not considered likely that any operation such as that covered by the provision will be established in the foreseeable future.

2. *Diversion of producer milk.* The present diversion privileges which limit the amount of an individual producer's milk that may be diverted to nonpool plants during the months of September through February should be modified to provide an alternative percentage standard applicable to both cooperative and nonmember milk. In any month of September-February a cooperative should be permitted to divert to nonpool plants a quantity of milk not exceeding 40 percent of the aggregate amount of producer milk it caused to be delivered to pool plants. Similarly, a proprietary pool handler should be permitted to divert to nonpool plants up to 40 percent of producer milk (exclusive of that received from producers whose milk a cooperative is diverting on a percentage basis) physically received at his pool plant during such month. The diversion privilege, now applicable only to milk associated with pool distributing plants, should be extended to include milk associated with pool supply plants.

The present provision limiting a producer's production that may be diverted to nonpool plants during the months of September through February to not more than his production physically received at pool plants should be continued as an alternative to the percentage limitation adopted above. In March-August, diversion of a producer's milk to a nonpool plant is limited only by the two days' production that must be delivered to a pool plant in any month to qualify the remainder of his production for diversion.

The modifications of the existing diversion provisions adopted herein were proposed by handlers who claimed that under present order provisions they are often forced into uneconomic handling, especially when the plants cannot accommodate the milk of all producers regularly supplying such plants. They held that adoption of their proposals would implement handling efficiency by eliminating the unnecessary receipt and transfer of reserve milk disposed of for manufacturing uses.

Although a federation of cooperatives opposed the proposals, their spokesman acknowledged that their adoption would implement more efficient disposition of surplus milk, as claimed by proponents.

Most, if not all, supply plants currently pooled under the Ohio Valley order maintain manufacturing operations, which are used in handling the market's reserve milk. However, when production of such a plant's regular producers exceeds its processing capacity, the excess production can be pooled only by first

receiving it into the plant and subsequently transferring it to another plant for manufacture. Under such conditions, particularly during periods of seasonally high production, supply plants may have no less need for diversion privileges to nonpool plants than do pool distributing plants. Such need is appropriately met by providing for diversion of producer milk from supply plants to nonpool plants.

Diversion provisions are intended to implement the efficient handling of that producer milk not needed in the market for Class I uses, such as on weekends, holidays, and during periods of seasonally high production. Such milk can be most economically handled by direct shipment from the farm to nearby manufacturing plants. The greatest efficiency in this regard is achieved by diverting milk from farms of producers nearest the manufacturing plants. This can be accomplished most practicably if the diversion is in terms of a percentage of the aggregate quantity of milk delivered to pool plants.

Under the present diversion provisions, which limit the amount of individual producers' milk that may be diverted in the months of September-February, handlers cannot always divert milk of producers in the most efficient manner. The adoption of alternative percent diversion standards will implement continued diversion of that milk less favorably situated with respect to the central market and to that end will enhance marketing efficiency while at the same time maintaining the integrity of the pooling provisions. In the aggregate, the percentage diversion limit herein adopted will not increase the amount of milk which may be diverted. In fact, a greater quantity of milk could be diverted under the present 50 percent limitation on individual producers' milk.

3. *Classification provisions—(a) Egg-nog.* The product "egg-nog" should be added to the list of named products for which a Class II classification applies. Egg-nog is presently accounted for as a Class I disposition.

A producer proposal to remove egg-nog from Class I was unopposed at the hearing and was strongly supported by handlers.

Egg-nog is a small-volume seasonal item that is produced and sold almost entirely in November and December. In 1973, when more than 99 percent of egg-nog sales for the year were in these two months, their aggregate sales accounted for less than 0.2 percent of total Class I fluid milk product sales in the market. Thus, its removal from Class I will have a minimal effect on producer returns.

Proponents initially proposed a Class III classification for egg-nog. However, they testified at the hearing that its inclusion in Class II might be more appropriate since egg-nog is in Class II in most Federal orders.

With egg-nog in Class I, Ohio Valley order handlers are at a competitive disadvantage with competing handlers

regulated under other nearby Federal orders. Under the present provision a major handler in the market has found it economically feasible to package egg-nog at his regulated plants under the Indiana and Southern Michigan orders, respectively, (where egg-nog is Class II) for distribution in the Ohio Valley market. Other competing handlers in the market do not have the same flexibility of operation and accordingly are disadvantaged because of their higher product cost.

Removing egg-nog from the "fluid milk product" definition and designating it as a Class II item, as provided in this decision, will allow Order 33 handlers to compete for egg-nog sales on a more equitable basis with each other and with handlers regulated under adjacent orders.

(b) *Milk shake mixes.* The classification of skim milk and butterfat in milk shake mixes should be determined on the basis of total solids content of the product. A Class I classification should apply to milk shake mixes containing less than 20 percent total solids. Conversely, milk shake mixes with 20 percent or more total solids should be Class III.

Milk shake mixes containing less than 15 percent total milk solids are now Class I and those with 15 percent or more total milk solids are Class III.

The federation of cooperatives proposing the change from "15 percent total milk solids" to "20 percent total solids" indicated a need to provide a more appropriate standard for determining classification of milk shake mixes. (The 20 percent total solids standard now applies for determining classification of milk shake mixes in most Federal orders.) They contended that total solids content of milk shake mixes can readily be established through a simple laboratory analysis whereas the determination of total milk solids content requires extensive testing procedures to separate the milk and nonmilk solids components. Proprietary handlers concurred and there was no opposition to the proposal.

Handlers testified that the present 15 percent or more total milk solids basis for determining a Class III classification of milk shake mixes requires use of a mix formula utilizing more costly ingredients than needed to meet the 20 percent total solids standard. Competitors regulated under surrounding orders which provide standards different from the 15 percent milk solids standard are able to use a less costly mix formulation, thereby gaining an advantage in competing for sales of milk shake mixes in the Ohio Valley marketing area.

Under the Indiana and Southern Michigan orders milk shake mixes containing less than 20 percent total solids are Class I. Handlers regulated under these and other orders compete with Ohio Valley handlers for milk shake mix sales.

Adoption herein of 20 percent total solids as a minimum requirement for Class III classification of milk shake mixes in the Ohio Valley order will pro-

vide a more equitable basis for Ohio Valley handlers to compete for milk shake mix sales with handlers regulated under other orders.

(c) *Direct allocation of nonfluid other source milk to Class II utilization.* The order should permit the direct allocation to Class II of other source milk received in a form other than a fluid milk product (e.g., nonfat dry milk and condensed milk or skim milk) or bulk cream and used to produce, or added to, Class II products.

A handler who proposed the change contended there is no basis for protecting the local dairy farmer against the use of nonfat dry milk solids and condensed milk or skim milk in Class II products since such products are more costly than producer milk. Proponent stated that handlers rely principally on producers for their Class II needs and obtain supplies from other sources only when producer milk is not available for Class II uses.

The major use of other source milk in Class II products is the addition of nonfat dry milk to cream products and to skim milk used for cottage cheese manufacture. When supplies of producer milk are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or condensed skim milk may be similarly used.

Nonfat dry milk has certain processing advantages for handlers. It can be added readily to milk or milk products to increase the nonfat milk solids content. Its storability enables handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use.

Since handlers can generally expect to pay more for nonfluid milk products than the cost of producer milk for Class II uses, there is no likelihood that they will restrict their use of producer milk for making cottage cheese when such milk is available. Allowing the direct allocation of nonfluid other source milk to Class II, as adopted herein, is compatible with the procedure followed in Federal orders generally and will tend to promote greater equity in competition with handlers in adjacent markets.

(d) *Classification of packaged fluid milk products in end-of-month inventory.* Packaged fluid milk products on hand at the end of the month should be Class III. Such products in ending inventory are now Class I while ending inventories of bulk fluid milk products are Class III.

The handler who proposed the change claimed that it would simplify application of the order without essentially affecting actual returns to producers. He stated further that, since the milk would be priced in the month when it is actually disposed of as Class I, a more appropriate treatment of packaged fluid milk products in ending inventory is achieved. There was no opposition to the proposal.

Whenever the Class I milk price changes from month-to-month, it is now necessary to adjust the Class I price value of the preceding month's ending inven-

tory of packaged fluid milk products to reflect the current month's Class I price in computing each handler's pool obligation. Proponent testified that this procedure, which he contended is unnecessarily involved and tends to cause confusion, would be eliminated if his proposal were adopted.

As proposed, and adopted herein, ending inventory of packaged fluid milk products would be classified as Class III and would be allocated at the same time as inventory of bulk fluid milk products to the lowest available use class in the following month. Any milk so assigned to Class I would be subject to an appropriate charge to the handler to reflect the changed classification.

Adopting the proposal will eliminate the necessity of making adjustments to reflect month-to-month Class I price differences when computing handlers' pool obligations and will provide the same classification of month-end inventories of packaged fluid milk products now provided in most Federal orders.

For the first month that this provision is effective, beginning inventories of packaged fluid milk products should be allocated to Class III to the extent possible. Since such inventories will have been priced at the previous month's Class I price, handlers should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I and Class III prices. If a higher classification results through the allocation procedure, the appropriate reclassification charge would apply.

(e) *Definition of fluid cream product.* A proposed "fluid cream product" definition offered during the hearing should not be adopted.

The fluid cream product definition proposed is identical to that incorporated in most Federal milk orders when the classification amendments were adopted in 1974.

Although proponent handler indicated it would be desirable to change the classification provisions of the order incidental to incorporating a fluid cream product definition in the order, his testimony in support of the proposal related essentially only to simplifying order references to cream items.

Producers opposed adoption of the proposed definition. They contended that the proponent handler was attempting to change the classification provisions of the order without submitting for inclusion in the hearing notice a specific proposal to that effect.

Testimony presented at the hearing provided no basis for the associated changes that would be required in classification provisions through adoption of the proposed fluid cream product definition. Accordingly, no amendatory action in this regard would be appropriate on the basis of this record.

4. *Adoption of a single butterfat differential.* A single butterfat differential, 11.5 percent of the Chicago butter price for the current month, should be used to adjust the class prices and the uniform price.

Presently, the order provides for three different butterfat differentials. That for Class I is 12 percent of the Chicago butter price for the preceding month; for Class II and Class III, it is 11.5 percent of the Chicago butter price for the current month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the three classes, weighted by the proportion of producer milk in each class.

A federation of cooperatives proposed that the Class I butterfat differential be reduced from 12 percent of the butter price for the preceding month to 11.5 percent of the butter price for the current month. In proposing a lower Class I butterfat differential, the cooperatives contended that the values now assigned to butterfat and skim milk in Class I products do not reflect the current market values of these components of milk.

Handler opposition to the proposal was limited to the slight increase in Class I milk costs that could result from lowering the Class I butterfat differential.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in the Federal order marketing areas. In 1966, the average butterfat test in 66 Federal order markets for such sales was 3.53 percent.¹ This percentage declined yearly, and in 1973, the latest full year for which data are available, the comparable average butterfat test for 57 markets was 3.11 percent. On a percentage basis, the average butterfat content in these fluid milk products declined 12 percent from 1966 to 1973. It can reasonably be expected that the decline at a comparable rate will continue in the several years immediately ahead.

The declining average butterfat content of packaged fluid milk product sales in the Ohio Valley order has been similar to the national trend. In 1966, the average butterfat content of Class I sales in the five markets that were merged in 1970 to form the Ohio Valley marketing area was 3.45 percent.² The comparable average test for 1973 was 3.14 percent, a decline of 9 percent. The increasing demand for Class I products of lower butterfat content can be expected to result in a continuing decline in the average butterfat content of Class I sales under the order. Adopting the same butterfat differential for Class I milk as for other classes, as provided in this decision, gives recognition to a lower market value of butterfat in the fluid milk products in Class I.

While the butterfat content in producer milk is relatively close to the average butterfat content of whole milk sold as Class I, it is now running substantially above the average test of all

Class I milk. This is because fluid skim milk and lowfat milk items have become an increasing proportion of Class I sales at the expense of whole milk.

During 1973, when the butterfat in Class I packaged fluid milk product sales averaged 3.01 percent, producer milk deliveries averaged 3.71 percent butterfat.

The order price for Class I milk of 3.01 percent butterfat sold by handlers during 1973 averaged \$7.218. This is computed by subtracting 41.2 cents (4.9 points of butterfat at 8.4 cents per point) from the average 1973 Class I price of \$7.63 for 3.5 percent milk. At the lower butterfat differential adopted in this decision, the adjustment in butterfat for such period would have been 39.2 cents (4.9 points of butterfat at 8.0 cents per point). This would have resulted in an average price of \$7.238 for such milk sold in Class I, 2.0 cents more than the actual Class I price (\$7.218) under the order for milk of 3.01 percent butterfat sold in Class I in 1973.

As indicated above, only the Class I butterfat differential is based on the butter price for the preceding month. That quotation no longer would be used for pricing under the order in the current month. The differential adopted in this decision would be based on the butter price for the current month, which is now used for computing the Class II and Class III butterfat differentials.

Because there is little change from month to month in the Chicago butter price, it is unnecessary to provide for average monthly butter quotations for both the current month and the preceding month for computing butterfat differentials applicable in the same month. Providing for the use of one average monthly butterfat quotation, that for the current month, as proposed at the hearing and here adopted, will simplify application of the order's provisions.

Since a single butterfat differential will apply to all classes of milk, such differential will determine the value of all butterfat in producer milk. If the differential is the same for each class, as proposed herein, the provisions for weighting the values of butterfat by classes become unnecessary and the same butterfat differential will be used for adjusting the producer's uniform price.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and

in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Ohio Valley marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1033.7 is revised as follows:

§ 1033.7 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 20 percent total solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include egg nog, yogurt, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing 6 percent or more nonmilk fat (or oil).

¹ Official notice is taken of the January 1972 Summary of Federal Milk Order Statistics (issued by the Dairy Division, AMS, USDA).

² Official notice is taken of the Annual Summary for 1967, Federal Order Statistics, Statistical Bulletin No. 426 (issued by the Dairy Division, C&MS, USDA).

2. In § 1033.12, paragraph (a) (2) (iii) is deleted and paragraph (a) (2) (i) and (ii) and paragraphs (b) and (c) are revised as follows:

§ 1033.12 Pool plant.

(a) * * *

(2) * * *

(i) Both such route disposition and receipts shall be exclusive of filled milk and of packaged fluid milk products received from other plants if priced as Class I milk under this or any other Federal order; and

(ii) A distributing plant that does not meet such percentage requirement in the current month shall not be disqualified under this subparagraph as a pool plant if such percentage was met in each of the three immediately preceding months.

(b) A supply plant from which during the month the total quantity of fluid milk products (except filled milk) transferred to and physically received in a pool distributing plant(s) meeting the percentage disposition requirements specified in paragraph (a) of this section with respect to its total receipts of fluid milk products (including milk diverted from such plant by the plant operator or a cooperative association but excluding bulk fluid milk products received by transfer or diversion from pool distributing plants as Class II or Class III milk) that are approved by a duly constituted health authority for fluid consumption, plus route disposition in the marketing area from the supply plant, is not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is received from dairy farmers (including milk diverted from the supply plant and excluding milk received by diversion from other plants) and from handlers described in § 1033.16(c). A supply plant that qualified as a pool plant in each of the preceding three months shall not be disqualified as a pool plant for the month if it failed to qualify solely because a distributing plant(s) to which qualifying shipments of milk were made during the month did not meet the percentage disposition requirements specified in paragraph (a) of this section with respect to its receipts specified in this paragraph. A plant that was qualified under this paragraph in each of the months of September through February (exclusive of route disposition in the marketing area from such plant) shall be a pool plant for the immediately following months of March through August unless the milk received at the plant does not meet the requirements of a duly constituted health authority, or the plant operator files with the market administrator prior to any such month a written request that the plant be designated as a nonpool plant. Such nonpool plant status shall be effective, beginning with the first month following such notice, until the plant qualifies under this section on the basis of shipments.

(c) A plant, other than a distributing plant, that is approved by a duly con-

stituted health authority to handle milk for fluid consumption and is operated by a cooperative association, if during the month fluid milk products are used to produce a manufactured milk product(s) in such plant, and more than 50 percent of the producer milk of members of such cooperative association is delivered directly from their farms, or transferred in bulk form from such plant, to plants of other handlers qualified under paragraph (a) of this section. If the cooperative association files with the market administrator prior to any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify pursuant to paragraph (b) of this section on the basis of shipments.

3. In § 1033.15, paragraphs (a) (3), (b), and (d) are revised as follows:

§ 1033.15 Producer milk.

(a) * * *

(3) Diverted for the handler's account from a pool distributing plant to another pool plant, or from a pool distributing plant or a pool supply plant to a nonpool plant that is not a producer-handler plant, subject to the further conditions set forth in paragraph (d) of this section; and

(b) With respect to a handler described in § 1033.16(b), diverted for such handler's account from the pool distributing plant of another handler to a pool plant, or from the pool distributing plant or a pool supply plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the further conditions set forth in paragraph (d) of this section; and

(d) The following conditions shall apply to milk of a producer diverted from a distributing pool plant to another pool plant, or from a pool distributing plant or a pool supply plant to a nonpool plant that is not a producer-handler plant:

(1) Not less than two days' production of the producer must be physically received during the month at such pool plant;

(2) In any month of September through February, the quantity of milk diverted to a nonpool plant shall be limited to the amounts specified in paragraph (d) (2) (i) and (ii) of this section:

(i) The operator of a pool plant may divert the milk of any producer (except a producer for whom a cooperative association is diverting milk under the percentage limit of paragraph (d) (2) (ii) of this section) for not more days of production than it was physically received at the diverting pool plant from such producer or he may divert an aggregate quantity of milk not exceeding 40 percent of the milk of all such producers that was physically received at the diverting pool plant during the month; and

(ii) A cooperative association may divert the milk of any producer (that it caused to be delivered to pool plants during the month) for not more days of

production than it was physically received at pool plants or it may divert an aggregate quantity not exceeding 40 percent of the milk of all such producers that it caused to be delivered to pool plants during the month;

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than it was physically received at a pool plant shall be producer milk;

(4) When milk is diverted in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk would be forfeited on a quantity of milk equal to such excess. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler;

(5) Diverted milk shall be priced at the location of the plant to which the milk is diverted; and

(6) Milk diverted to another order plant would be produced milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act, and such milk is not subject to the pricing and pooling provisions of the other order.

4. In § 1033.16, paragraph (b) is revised as follows:

§ 1033.16 Handler.

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool distributing plant of another person to a pool plant, or from a pool distributing plant or a pool supply plant of another person to a nonpool plant that is not a producer-handler plant;

5. In § 1033.27, paragraph (k) is revised as follows:

§ 1033.27 Duties.

(k) Publicly announce on or before:

- (1) The 5th day of each month;
- (i) The Class I price for the following month;
- (ii) The Class II and Class III prices for the preceding month; and
- (iii) The butterfat differential for the preceding month; and
- (2) The 12th day of each month, the uniform price for the preceding month;

6. In § 1033.41, paragraphs (a), (b) (1) and (c) (1) and (3) are revised as follows:

§ 1033.41 Class of utilization.

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section. Any

fluid milk product that is modified by the addition of nonfat milk solids shall be Class I milk in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content; and

(2) Not accounted for as Class II or Class III milk.

(b) * * *

(1) Disposed of as fluid cream (including aerated cream and sterilized cream), egg nog, or as mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat:

(c) * * *

(1) Skim milk and butterfat used to produce butter, nonfat dry milk, dry whole milk, dry whey, dry buttermilk, casein, cheese (except cottage cheese and cottage cheese curd), frozen cream, milk shake mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk in plain or sweetened form, and any product containing six percent or more nonmilk fat (or oil);

(3) Skim milk and butterfat in inventory of fluid milk products and bulk cream at the end of the month;

7. In § 1033.46, paragraph (a) (4) is deleted, paragraph (a) (5) is renumbered (a) (4), a new paragraph (a) (5) is added to read as follows, and paragraphs (a) (6) (1) and (a) (9) are revised as follows:

§ 1033.46 Allocation of skim milk and butterfat classified.

(a) * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a product described in § 1033.41(b) (1) that is used to produce, or added to, any product specified in § 1033.41(b), but not in excess of the pounds of skim milk remaining in Class II;

(b) * * *

(1) Other source milk in a form other than that of a fluid milk product or bulk cream that was not subtracted pursuant to paragraph (a) (5) of this section;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk cream at the beginning of the month;

8. In § 1033.51, the introductory paragraph is revised as follows:

§ 1033.51 Class prices.

Subject to the provisions of § 1033.53, the class prices per hundredweight for the month shall be as follows:

§ 1033.52 [Revoked]

9. Section 1033.52 is revoked.

10. In § 1033.60, paragraph (d) is revoked, and paragraphs (b) and (e) are revised as follows:

§ 1033.60 Computation of the net pool obligation of each handler.

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.46(a) (14) and the corresponding step of § 1033.46(b) by the applicable class price, as adjusted by the butterfat differential specified in § 1033.73;

(e) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the applicable Class I and Class III prices for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1033.61 [Amended]

11. In § 1033.61, paragraph (b) is revoked.

12. Section 1033.73 is revised as follows:

§ 1033.73 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at a rate determined by multiplying the Chicago butter price for the month by 0.115.

Signed at Washington, D.C., on: March 27, 1975.

JOHN C. BLUM,
Associate Administrator.

[FR Doc. 75-8483 Filed 4-1-75; 8:45 am]

Farmers Home Administration

[7 CFR Part 1823]

[FmHA Instruction 442.9]

ASSOCIATION LOANS AND GRANTS; COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Processing Loans to Associations

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of §§ 1823.287 and 1823.288 of Subpart I of Part 1823, Title 7, Code of Federal Regulations (35 FR 15091; 37 FR 14218; 38 FR 8663). It is proposed that § 1823.287 be revised to amend the requirements pertaining to audits for association-type loans; it is proposed that § 1823.288 be amended to comply with changes made in § 1823.287.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building,

Washington, D.C. 20250, on or before May 2, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Chief, Directives Management Branch during regular business hours (8:15 a.m.-4:45 p.m.).

As proposed, §§ 1823.287 and 1823.288 will read as follows:

§ 1823.287 Audits.

State Directors are responsible for audit report review and analyzing and initiating indicated servicing and/or management assistance actions.

(a) Unless otherwise required by the FmHA State Director, borrowers whose annual income exceeds the amounts shown below are required to submit audit reports:

- (1) Recreation—\$50,000.
- (2) EO Coops—\$100,000.
- (3) Irrigation and Drainage—\$50,000.
- (4) Grazing Associations—\$50,000.

(b) Public body borrower audit reports prepared in accordance with State statutes and regulations are acceptable, provided they contain the financial information necessary and are prepared on a frequency sufficient to provide a basis to furnish borrowers with management assistance guidance, and provide FmHA with the information for proper program operations.

(c) Borrowers other than public bodies and public bodies in those cases where the State has no audit requirements are required to have their records audited at least biannually by an independent public accountant.

(1) Such audits should be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants licensed on or before December 31, 1970, who have been certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees."

(d) A copy of the audit report will be forwarded to the FmHA County Supervisor by the borrower as soon as it is received.

§ 1823.288 Financial reports for organizations not required to submit an audit report.

Borrowers whose annual gross incomes for a full year of operation are less than those shown in § 1823.287 and not having an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FmHA County Supervisor with an annual report, consisting of a verification of the organization's balance sheet and statement of income and expense by a committee of the membership not including any officer, director or employee. Such

committees will be appointed by the borrower's governing body and will certify to its examination of the accounts and records. The final Form FmHA 442-2, "State of Income and Expense," for the year and the Form FmHA 442-3, "Balance Sheet," will be used. Borrowers having six or less members may use officers or directors on such committees.

(7 U.S.C. 1989, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: March 27, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.
[FR Doc.75-8481 Filed 4-1-75;8:45 am]

Federal Crop Insurance Corporation

[7 CFR Part 401]

FEDERAL CROP INSURANCE

Barley; Wyoming

Pursuant to a statement of policy issued by the Secretary of Agriculture on July 20, 1971 (36 FR 13804), notice is hereby given that the Board of Directors of the Federal Crop Insurance Corporation is considering and tentatively approved at its meeting on March 27, 1975, an amendment to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, as amended (7 CFR 401.101 et seq.) to be effective beginning with the 1976 crop year, which would amend § 401.103 and § 401.125 in the following respects:

1. The portion of the table relating to "Closing Dates" following paragraph (a) of § 401.103 of this chapter under the heading "Barley" is amended effective beginning with the 1976 crop year by striking out "and Wyoming" from the line reading "Colorado and Wyoming."

2. In section 6 of the Barley Endorsement shown in § 401.125 of this chapter, the table at the end thereof is amended effective beginning with the 1976 crop year by striking out "and Wyoming" from the line reading "Colorado and Wyoming."

The foregoing amendment will establish April 15 instead of March 31, as the closing date for filing applications and termination date for indebtedness in the State of Wyoming. Thus, the amendment would provide an additional 15 days in Wyoming for applicants to obtain barley crop insurance, and for insureds to pay their premiums before their contracts are terminated for indebtedness.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment should send the same to Melvin R. Peterson, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions must be delivered or postmarked no later than May 2, 1975 to be sure of consideration. All written submissions made pursuant to this notice will be made available for public inspection

at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

Dated: March 28, 1975.

[SEAL] PETER F. COLE,
Acting Secretary, Federal
Crop Insurance Corporation.

[FR Doc.75-8480 Filed 4-1-75;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 227]

ATLANTIC BLUEFIN TUNA

Threatened Species—Fish

Section 4(d) of the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., provides that for any species listed as threatened, the Secretary shall issue such protective regulations as he deems necessary and advisable to provide for the conservation of such species. On April 2, 1975, the Director, National Marine Fisheries Service in consultation with the Director, United States Fish and Wildlife Service, published in the FEDERAL REGISTER (40 FR 14787) a notice of proposed rulemaking which would list the Atlantic bluefin tuna (*Thunnus thynnus thynnus*) as a threatened species in 50 CFR 17.33.

In anticipation of and in the event that, Atlantic bluefin tuna is listed as threatened, notice is hereby given that the Director, National Marine Fisheries Service proposes to establish the following regulations concerning the taking of Atlantic bluefin tuna. The proposed regulations establish catch quotas for several methods of taking during the fishing season, and outline reporting requirements to implement the measures to conserve and manage this species.

Interested persons may participate in this rulemaking process, by submitting written comments, views or objections on these proposed regulations on or before June 2, 1975. Further, any persons who feel that they may be adversely affected by these proposed regulations may file, on or before May 19, 1975, objections thereto and request a public hearing thereon. Said comments, views, objections, or requests for a public hearing shall be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, no later than close of business May 28, 1975.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

It is therefore proposed to add new Part 227 "Threatened Species—Fish" as follows:

PART 227 THREATENED SPECIES—FISH

Subpart A—General

Sec.	Definitions.
227.1	Purpose of regulations.
227.3	Scope.

Sec.	Enforcement.
227.4	Civil penalties.

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus thynnus*)

227.11	Catch quotas.
227.12	Prohibitions.
227.13	Size and weight tolerance.
227.14	Open and closed seasons.
227.15	Reporting requirements.

AUTHORITY: Endangered Species Act of 1973, Pub. L. 93-205, 16 U.S.C. § 1531 et seq. (the Act).

Subpart A—General

§ 227.1 Definitions.

Unless otherwise defined herein, the terms used in this part will have the meanings ascribed to them in Parts 217-22 of these regulations and the Act.

(a) "Angling" means taking fish with a hand-held rod and reel designed and manufactured for the purpose of sport.

(b) "Closed season" means the time during which threatened species may not be lawfully taken.

(c) "Dealer" means any person (as hereinafter defined) who carries out a commercial activity with respect to a threatened species, or parts thereof.

(d) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than birds or marine mammals.

(e) "Open season" means the time during which threatened species may be lawfully taken in accordance with established quotas or other limitations.

(f) "Person" means any individual, association, corporation, or partnership over which the United States has jurisdiction.

(g) "Purse seining" means taking fish by means of an encircling net and associated gear used in commercial fishing operations.

(h) "Threatened species" means any species over which the Secretary of Commerce exercises jurisdiction and which is listed as "threatened" pursuant to section 4(d) of the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205.

(i) "Vessel" means all watercraft subject to the jurisdiction of the United States, except purse seine skiffs, which are used for taking, transporting, holding or preserving fish.

§ 227.2 Purpose of regulations.

The regulations contained in this part provide rules, procedures, and measures to conserve and manage any threatened species.

§ 227.3 Scope.

The regulations in this part apply only for fish or wildlife under the jurisdictional responsibilities of the Secretary of Commerce for the purpose of carrying out the Endangered Species Act of 1973. Threatened species of fish or wildlife other than those covered by these regulations are under the jurisdiction of the Secretary of the Interior. For rules and procedures relating to such species, see 50 CFR Parts 10-17.

§ 227.4 Enforcement.

Enforcement agents of the National Marine Fisheries Service shall enforce these regulations and the Act. The Secretary may utilize by cooperative agreements, the personnel, services, and facilities of other Federal or State Agency for the purposes of enforcing this Act. The Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of the Act.

§ 227.5 Civil penalties.

Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates any provisions of these regulations or the Act with respect to a threatened species may be assessed a civil penalty by the Secretary of not more than \$5,000 for each such violation. Any person who otherwise violates any provisions of these regulations or the Act with respect to a threatened species may be assessed a civil penalty by the Secretary of not more than \$1,000 for each violation.

Subpart B—Atlantic Bluefin Tuna

(*Thunnus thynnus thynnus*)

§ 227.11 Catch quota.

The total annual catch quotas, by method of taking, for Atlantic bluefin tuna are as follows:

(a) *Purse seining.* (1) The total annual catch quota for Atlantic bluefin tuna that weigh between 14 pounds (6.4 kg.) round weight and 115 pounds (52.3 kg.) round weight is 1,000 short tons.

(2) The total annual catch quota for Atlantic bluefin tuna that weigh in excess of 115 pounds round weight is 200 short tons.

(b) *Taking by other than purse seining.* (1) The total annual catch of Atlantic bluefin tuna which weigh in excess of 115 pounds round weight is 1300 tuna. When taken by angling prior to September 1, the catch shall be limited to one tuna per vessel per day, which shall be counted as part of the total annual catch of 1300 tuna.

(2) Individuals may take and possess two Atlantic bluefin tuna per day by angling, which weigh between 14 and 115 pounds round weight.

§ 227.12 Prohibitions.

(a) It shall be unlawful for any person or vessel: (1) To take Atlantic bluefin tuna weighing less than 14 pounds (6.4 kg.) round weight or measuring less than 27 inches (68 cm.) in length (measured in a straight line from tip of the nose to the fork of the tail) except as provided for in § 227.13; and (2) to take Atlantic bluefin tuna in excess of the catch quotas established by § 227.11 and tolerances established by § 227.13.

(b) It shall be unlawful for any persons: (1) To possess Atlantic bluefin tuna taken in violation of these regulations; (2) to fail to comply with the reporting requirements under § 227.3; and § 227.15 (3) to engage in any com-

mercial activity in territorial waters or on the high seas with respect to Atlantic bluefin tuna without prior approval from the Director.

§ 227.13 Size and weight tolerance.

(a) Purse seine vessels taking Atlantic bluefin tuna weighing more than 14 pounds but less than 115 pounds round weight, may in addition incidentally take, on any one trip, Atlantic bluefin tuna outside said weight limits provided, however, that the number of such tuna taken shall not exceed either 15 percent of the total number of tuna taken which do not exceed said limits, or 4 percent by weight the total weight of tuna taken which do not exceed said limits. All tuna taken incidentally shall be included in catch quotas set forth under § 227.11.

§ 227.14 Open and closed seasons.

(a) The season for taking Atlantic bluefin tuna by purse seining shall open January 1 of each calendar year.

(b) The season for taking Atlantic bluefin tuna by angling shall open January 1 of each calendar year.

(c) The season for taking bluefin tuna by methods other than seining and angling shall open September 1 of each calendar year.

(d) The Director shall announce in the FEDERAL REGISTER the closing of each open season for the taking of Atlantic bluefin tuna.

§ 227.15 Reporting requirements.

(a) *Dealers.* Dealers shall maintain and furnish to an authorized representative of the National Marine Fisheries Service, within 72 hours of a commercial activity, a complete record of all transactions, showing the numbers and weight, date of transaction, and disposition.

(b) *Vessels.* The master or operator of any vessel that takes an Atlantic bluefin tuna shall keep an accurate record of the fishing operations and provide this information to an authorized representative of the National Marine Fisheries Service within 72 hours of landing. The record shall include the vessel name, operator's name, and with respect to the catch, the date and place caught, weight, and numbers for tuna that weigh in excess of 115 pounds, and dealer's name and address when appropriate.

(c) It shall be the responsibility of the dealer to affix upon the tail of each Atlantic bluefin tuna that weighs in excess of 115 pounds, a tag, furnished by the National Marine Fisheries Service. The tear away portion of the tag shall be completed and mailed to the National Marine Fisheries Service within 72 hours of receipt of the fish.

(d) The affixed portion of the tag must remain in place until the tuna is being processed, packed for export, or otherwise disposed of, at which time the dealer shall cause the tag to be removed with a 3-6 inch section of the tail (caudal peduncle) and retain for collection by the National Marine Fisheries Service.

[FR Doc.75-8454 Filed 4-1-75; 8:45 am]

[50 CFR Part 251]

FINANCIAL AID PROGRAM PROCEDURES

Fishery for American Lobster in the Gulf of Maine

Notice is hereby given that the Director, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), has under consideration an amendment to Financial Aid Program Procedures (50 CFR Part 251) to incorporate in Subpart B of Part 251 a new section to adopt the "fishery for American lobster in the Gulf of Maine" as a Conditional Fishery.

It is the intent of the conditional fisheries regulatory mechanism as set forth in Part 251 of this chapter that NMFS financial assistance activities will be consistent with the wise use of the fisheries resources and with their development, advancement, management, conservation and protection. When, upon review and evaluation of situations and conditions in a fishery, it is determined that certain fisheries demonstrably do not need additional harvesting capacity to meet management needs and objectives those fisheries may be adopted as conditional fisheries. Fisheries adopted as conditional fisheries will be those in which application of NMFS financial assistance activities will be controlled in a manner which, on balance, will be consistent with the needs and objectives of management. Consequently, NMFS financial assistance programs will not be used to worsen conditions in those fisheries adopted as conditional fisheries. To the contrary, these programs may then be more effectively and efficiently used to assist established fishermen in all fisheries, including conditional fisheries, under terms and conditions as set forth in the cross-referenced regulations for each financial assistance program. However, this regulatory mechanism (50 CFR Part 251) is not viewed as a substitute for sound fisheries management and enforcement practices at the international, national, and state levels.

Subpart A of 50 CFR Part 251 sets forth the general policy under which financial assistance programs for the commercial fisheries will be administered and establishes the procedures to be used in proposing and adopting a fishery as a Conditional Fishery. Each fishery adopted as a Conditional Fishery will be enumerated under Subpart B of 50 CFR Part 251.

In considering the adoption of a Conditional Fishery, the terms and conditions of cross-referenced regulations for administering the Fishing Vessel Obligation Guarantee program (50 CFR Part 255) and the Fishing Vessel Capital Construction Fund program (50 CFR Part 259) are reviewed to assure that due consideration is afforded to participants or potential participants in these programs. Part 255 and Part 259 of this chapter should be referred to for details.

The proposed amendment, as set forth below, would incorporate in Subpart B

of the regulations a new § 251.22 to classify the "fishery for American lobster in the Gulf of Maine" as a Conditional Fishery as the term is defined in § 251.1(i).

The principal situations and conditions under consideration for determining that the "fishery for American lobster in the Gulf of Maine" is in need of regulation under Part 251 of this chapter are described in the following Explanatory Statement.

Federal and State agencies as well as the general public were given time to comment on this proposed amendment after a similar notice was published on July 22, 1974, in the *FEDERAL REGISTER* (39 FR 26650). Comments that were received are being evaluated and the Director has determined that additional opportunity for presentation of written views and for evaluation of all available information is warranted. Accordingly, written views, data or arguments on this proposed amendment should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All communications received on or before July 1, 1975, will be considered before action is taken with respect to adoption of the proposed amendment.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

Explanatory statement. The Director considers it necessary to classify the "fishery for American lobster (*Homarus americanus*) in the Gulf of Maine" as a Conditional Fishery for regulation under Part 251 of this chapter. For the purposes of this regulation, the Gulf of Maine lobster fishery is defined to include all waters west of an imaginary line drawn between Race Point Light, Massachusetts and Frenchman Point, Nova Scotia. The necessary situations and conditions for such classification follow.

Programs to conserve and manage the fishery for American lobster in the Gulf of Maine have relied generally on controlling the minimum size at which lobsters may be legally harvested and on restricting the harvesting of egg-bearing female lobsters; but these programs do not restrict the number of vessels or the units of fishing gear, i.e., lobster traps, which may be used in this fishery.

Scientific studies of Gulf of Maine American lobsters indicated that 90 percent or more of the available legal size Maine lobsters are caught each year, and that the majority of Maine lobsters reach minimum legal size (3 and 3/16 inches carapace length in Maine) when they are from 5 to 7 years old which is before most female lobsters have reached sexual maturity thus obviating any opportunity for them to spawn. Further, some wastage of lobsters is inevitable when lobsters are caught in traps which cannot be recovered by fishermen and such wastage probably increases with increased numbers of traps used in this fishery.

The estimated annual maximum sustainable yield from the Maine lobster fishery is about 22 million pounds. This amount was harvested in 1962 when about 5,600 craft, employing some 750,000 traps, were engaged in this fishery. During recent years, annual lobster landings in Maine have decreased to about 10 to 20 percent below the estimated annual maximum sustainable yield while the number of craft has increased more than 10 percent and the number of traps fished has increased more than 70 percent. Fishermen from New Hampshire and Massachusetts also harvest American lobsters in the Gulf of Maine under conditions similar to those of the Maine fishery. It is considered, therefore, that currently there are more craft and traps than needed to harvest the estimated annual maximum sustainable yield from the fishery for American lobster in the Gulf of Maine. Upon review of, among other things, the facts set forth herein, Maine is considering legislation to limit the number of lobster licenses as part of its conservation and management program.

Consequently, the Director is considering that the "fishery for American lobster in the Gulf of Maine" should be a Conditional Fishery in accordance with Part 251 of this chapter as it now appears that the use of the financial assistance programs to add vessel capacity which would lead to an increase in the number of traps being employed in this fishery would not be consistent with the needs and objectives of management.

It is proposed to amend Part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.22 as follows:

§ 251.22 Fishery for American lobster (*Homarus americanus*) in the Gulf of Maine.

[FR Doc.75-8513 Filed 4-1-75; 8:45 am]

[50 CFR Part 251]

FINANCIAL AID PROGRAM PROCEDURES

Fishery for Salmon in Washington, Oregon, and California

Notice is hereby given that the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, has under consideration an amendment to the regulations (50 CFR Part 251) which sets forth financial aid program procedures.

It is the intent of Part 251 of this chapter that financial assistance programs will not be made available when upon review of situations and conditions at hand, as well as prospective developments, the Director deems that the use of such financial assistance programs would not be consistent with the wise use and with the development, advancement, management, conservation, and protection of fisheries resources.

The proposed amendment, as set forth below, would incorporate in Subpart B of the regulation a new § 251.23 to classify the "fishery for salmon in Washington, Oregon and California" as

a Conditional Fishery as the term is defined in § 251.1(i).

The principal situations and conditions under consideration for determining that the "fishery for salmon in Washington, Oregon and California" is in need of regulation under Part 251 of this chapter are described in the following Explanatory Statement.

Federal and State agencies as well as the public will be given time and opportunity to comment on this proposed amendment. Comments that are received will be evaluated giving full consideration to the national interest and the multiplicity of environmental, biological, economic, social, and other situations and conditions as the Director may deem relevant. Upon evaluation of all comments and available information the Director will take action as may be appropriate and will continue to monitor and assess situations and conditions related to the "fishery for salmon in Washington, Oregon, and California" to determine the continued need for regulation. This proposed amendment is published pursuant to the authority contained in section 4 of the Fish and Wildlife Act, 1956, as amended, Title XI of the Merchant Marine Act, 1936, as amended, section 607 of the Merchant Marine Act, 1936, as amended, the National Environmental Policy Act, and Reorganization Plan No. 4 of 1970.

Written views, data, or arguments on this proposed amendment should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All communications received on or before July 1, 1975 will be considered before action is taken with respect to adoption of the proposed amendment. No public hearing is contemplated at this time; however, any persons desiring a public hearing may request such a hearing by writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235. In the event that a public hearing is found necessary, an appropriate notice to that effect will be published in the *FEDERAL REGISTER*.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

Explanatory Statement. The Director considers it necessary to classify the "fishery for salmon in Washington, Oregon, and California" as a Conditional Fishery for regulation under Part 251 of this chapter. The necessary situations and conditions for such classification follow.

Washington, Oregon, and California have established laws, regulations, and joint agreements to protect and conserve the salmon fisheries in those areas of the Pacific Ocean over which these States have jurisdiction. These States, as well as the Federal Government and universities, carry out research studies and activities related to conservation and management of fisheries resources. Accordingly, based on information related to its salmon fisheries, each of the States of

PROPOSED RULES

DEPARTMENT OF
TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75-EA-20]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal aviation regulations so as to alter the Parkersburg, W. Va., Transition Area (40 FR 563).

A new NDB Rwy 3 instrument approach procedure developed for Wood County (Gill Robb Wilson Field) Airport, Parkersburg, W. Va., requires alteration of the transition area to provide additional controlled airspace for aircraft executing the new procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before May 2, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Parkersburg, West Virginia, proposes the airspace action hereinafter set forth:

§ 71.181 [Amended]

Amend § 71.181 of Part 71, Federal aviation regulations so as to amend the description of the Parkersburg, W. Va. Transition Area by inserting, "within 4.5 miles west and 6.5 miles east of a 200° bearing from the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course OM, extending from 5.5 miles north to 11.5 miles south of the OM;" following, "10 miles south of the OM;"

This amendment is proposed under

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]).

Issued in Jamaica, N.Y., on March 19, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-8444 Filed 4-1-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-21]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal aviation regulations so as to alter the Hazleton, Pa., Transition Area (40 FR 508).

A new LOC Rwy 28 instrument approach procedure developed for Hazleton Municipal Airport, Hazleton, Pa., requires alteration of the transition area to provide additional controlled airspace for aircraft executing the instrument approach procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before May 2, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Hazleton, Pennsylvania, proposes the airspace action hereinafter set forth:

§ 71.181 [Amended]

Amend § 71.181 of Part 71, Federal aviation regulations so as to amend the description of the Hazleton, Pa. Transition Area by adding, "; within 4.5 miles

Washington, Oregon, and California established stringent rules and regulations to restrict commercial fishing for salmon. However, during recent years, there have been progressive increases in the number of vessels engaged in taking the limited harvestable portion of salmon in those waters of the Pacific Ocean over which these States have jurisdiction. This condition has made it increasingly difficult for the States to carry out management programs to provide for the season and the conditions under which limited harvests of salmon may be taken while still conserving and protecting salmon fisheries resources.

Management agencies of these States have recognized that there presently exist more than enough vessels and gear to take the harvestable portions of each State's salmon runs and that, in addition, scientific advancement have increased the efficiency of salmon fishing gear. These conditions have made it necessary for State management agencies to place additional regulatory constraints on the commercial fishery for salmon, further complicating already difficult salmon fisheries management efforts. Management has further recognized that limited salmon resources cannot provide reasonable economic returns for an unlimited number of commercial fishermen, vessels, and gear, and that to continue additions of commercial salmon fishing vessels and gear would only further exacerbate the problems of management and affect the economic efficiency of the existing commercial salmon fishing fleet.

Examples of protective regulations used by State management agencies to constrain commercial fishing for salmon in Washington, Oregon, and California include the prohibition of the use of all but certain specified fishing gear, restrictions on the open seasons for commercial fishing, prohibitions that close certain areas to commercial fishing, and minimum size limits for salmon.

In view of the above situations and conditions, it appears that the use of financial assistance programs to add vessel capacity to the fishery for salmon in the States of Washington, Oregon, and California would not be consistent with the needs and objectives of management. Consequently, the Director is considering that the "fishery for salmon in Washington, Oregon, and California" should be a Conditional Fishery in accordance with Part 251 of this chapter.

It is proposed to amend Part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.23 as follows:

§ 251.23 Fishery for salmon in Washington, Oregon, and California.

[FR Doc.75-8514 Filed 4-1-75;8:45 am]

each side of the Hazleton Municipal Airport ILS localizer east course, extending from the OM to 10 miles east of the OM," following, "east of the VOR."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on March 19, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-8445 Filed 4-1-75; 8:45 am]

[14 CFR Part 71]

[Airspace Dockets Nos. 73-SO-38, 39, 44,
45, 48, and 58]

TRANSITION AREAS

Withdrawal of Proposed Alteration and Designation

The following notices of proposed rulemaking, together with the FEDERAL REGISTER publication date and the proposed actions to amend Part 71 of the Federal aviation regulations, are withdrawn:

1. Airspace Docket No. 73-SO-38, published in the FEDERAL REGISTER dated September 14, 1973 (38 FR 25696) proposing to alter the Dillon and Bennettsville, S.C., transition areas.

2. Airspace Docket No. 73-SO-39, published in the FEDERAL REGISTER dated June 27, 1973 (38 FR 16914) proposing to alter the Cheraw and Sumter, S.C., transition areas.

3. Airspace Docket No. 73-SO-44, published in the FEDERAL REGISTER dated June 29, 1973 (38 FR 17250) proposing to alter the Marion, S.C., transition area.

4. Airspace Docket No. 73-SO-45, published in the FEDERAL REGISTER dated June 29, 1973 (38 FR 17250) proposing to designate the Newberry, S.C., transition area.

5. Airspace Docket No. 73-SO-48, published in the FEDERAL REGISTER dated July 18, 1973 (38 FR 19131) proposing to alter the Clemson, S.C., transition area.

6. Airspace Docket No. 73-SO-58, published in the FEDERAL REGISTER dated August 29, 1973 (38 FR 23337) proposing to alter the Lancaster, S.C., transition area.

Subsequent to publication of the notices, it was determined that the proposed nondirectional radio beacons, at the above locations, would not be established, and action is required to withdraw the proposals to provide controlled airspace protection for IFR aircraft executing NDB instrument approaches to the airports.

In consideration of the foregoing, notice is hereby given that the proposed amendments contained in Airspace Dockets Nos. 73-SO-38, 39, 44, 45, 48 and 58 are withdrawn.

These withdrawals are made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on March 21, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-8446 Filed 4-1-75; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-16]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal aviation regulations so as to designate a Luray, Va., Transition Area.

A new NDB instrument procedure is being developed for Luray Caverns Airport, Luray, Virginia. This development will require designation of a transition area to provide controlled airspace to protect aircraft executing the new instrument procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before May 2, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Luray, Virginia, proposes the airspace action hereinafter set forth:

§ 71.181 [Amended]

Amend § 71.181 of Part 71, Federal aviation regulations by designating a Luray, Va. Transition Area as follows:

LURAY, VA.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 38°40'01" N., 78°30'01" W., of Luray Caverns Airport, Luray, Va., extending clockwise from a 266° bearing to a 314° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 348° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 348° bearing to a 040° bearing from the airport; within a 15-

mile radius of the center of the airport, extending clockwise from a 040° bearing to a 057° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 057° bearing to a 074° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 141° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 141° bearing to a 166° bearing from the airport; within a 20-mile radius of the center of the airport extending clockwise from a 166° bearing to a 188° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 188° bearing to a 213° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 213° bearing to a 234° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 246° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 246° bearing to a 266° bearing from the airport.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on March 20, 1975.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.75-8504 Filed 4-1-75; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 75-RM-7]

JET ROUTE

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal aviation regulations that would extend Jet Route 10 from Denver, Colo., to Wolbach, Nebr., via North Platte, Nebr.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before May 2, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would extend J-10 from Denver, Colo., via North Platte, Nebr.; direct to Wolbach, Nebr. The proposed route extension overlies the North Platte Two SID which is used

extensively by eastbound departures from Denver Airport. This would aid flight planning, reduce controller workload, and improve air traffic control procedures.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 27, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 75-8505 Filed 4-1-75; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 275]

[Release Nos. 34-11324, IA-448 File No. 87-559]

EXEMPTION OF INVESTMENT ADVISERS REGISTERED AS BROKER-DEALERS WITH RESPECT TO CERTAIN INVESTMENT ADVISORY SERVICES

Proposed Rulemaking

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 206(3)-1 (17 CFR 275.206(3)-1) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) (the "Act"). The Rule would exempt investment advisers who are registered broker-dealers from the requirements of section 206(3) (15 U.S.C. 80b-6(3)) of the Act in connection with transactions in relation to which such brokers or dealers are acting as investment advisers solely by means of (1) publicly distributed written materials or publicly made oral statements, or (2) responses to specific requests for statistical information where such responses involve no expressions of opinion or estimates by the investment adviser as to the investment merits of a particular security; provided, however, that such materials and oral statements include a statement that if the purchaser of the advisory communication uses the services of the adviser in connection with a sale or purchase of a security which is a subject of such communication, the adviser may act as principal for its own account or as agent for another person.

For the purposes of this rule, publicly distributed written materials are those which are distributed to 35 or more persons who pay for such materials, and publicly made oral statements are those made simultaneously to 35 or more persons who pay for access to such statements.

Section 206(3) of the Act makes it unlawful for any investment adviser by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

[A]cting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any

security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction. The prohibitions of this paragraph (3) shall not apply to any transaction with a customer of a broker or dealer if such broker or dealer is not acting as an investment adviser in relation to such transaction.

The Commission proposes to adopt Rule 206(3)-1 because of indications that, as a result of the decision of the Commission that commission rates for securities transactions executed on or effected by the use of the facilities of a national securities exchange be unfixed,¹ broker-dealers whose performance of investment advisory services was solely incidental to their brokerage business and without separate charge therefor may now decide to charge separately for these services. This practice would cause them to be subject to the provisions of the Act. However, compliance with section 206(3) may be difficult in connection with the performance of certain impersonal advisory services. In these circumstances, an exemption from section 206(3) with respect to such impersonal advisory services appears to be consistent with the intent of Congress. Such services generally have been provided by broker-dealers without special charges. To that extent, they therefore have been services not subject to the provisions of the Act because of the exception provided by the Act from the definition of "investment adviser" for broker-dealers providing such services without special charge and solely incidental to their business as such broker-dealers.²

The Act broadly defines "investment adviser" to mean " . . . any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities"

Any broker or dealer whose performance of investment advisory services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor is specifically exempted from the definition.³ Broker-dealers who provide advisory services to their customers for special compensation are, therefore, "investment advisers" within the meaning of the Act and thus subject to the provisions of section 206(3) of the Act.

¹ Rule 19b-3 [17 CFR 240.19b-3] under the Securities Exchange Act of 1934 (the "1934 Act"), which has recently been adopted by the Commission (Rel. No. 34-11203) mandates the unfixing of commission rates effective May 1, 1975.

² Section 202(a)(11)(C) [15 U.S.C. 80b-2(a)(11)(C)] of the Act.

³ Section 202(a)(11) [15 U.S.C. 80b-2(a)(11)] of the Act.

⁴ See note 2, above.

A large brokerage firm providing thousands of persons with investment advisory services such as market letters or other widely distributed written publications, seminars, or pricing and valuation services may find it difficult and impractical to determine with respect to each customer with whom the firm proposes to effect a principal or cross-trade whether the firm has acted as an investment adviser "in relation to such transaction." Moreover, the administrative problems of determining when and under which circumstances notice must be given, and the time involved in making such a determination as well as the problems of handling the volume of paperwork that would be generated in providing written notice to all such customers and in obtaining their consent, may make the procedure required by section 206(3) administratively unfeasible. Finally, because advisory recommendations are frequently quite specific with respect to a particular time interval or a specified price range within which a security is to be purchased or sold, it may be impractical to require the broker-dealer to wait until receipt of the customer's consent before executing principal transactions or cross-trades.

The Commission proposes, therefore, to utilize the exemptive rulemaking process provided by sections 206A (15 U.S.C. 80b-6a) and 211(a) (15 U.S.C. 80b-11(a)) of the Act⁴ to afford investment advisers who are registered broker-dealers an exemption from section 206(3) with respect to their provision of certain impersonal investment advisory services.

The exemption has been limited to these services because they do not normally involve a close personal relationship between adviser and client which is likely to result in the client's relying on the adviser for services as a broker or dealer. In contrast, such a relationship exists, for example, in situations involving investment supervisory services or discretionary management. In these situations, as well as in the rendering of investment advisory opinions on an individual basis, the recipients of such services place a special trust and reliance on

⁴ Pursuant to Section 206A, the Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 211(a) provides that the Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon the Commission elsewhere in the Act. For the purposes of its rules or regulations the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters.

their investment advisers. In that context, it is critical that when the adviser also acts as agent or principal in securities transactions with the client, the protections of section 206(3) should be applicable.

For purposes of the proposed Rule, publicly distributed written materials would be those which are distributed to 35 persons who pay for such materials, and publicly made oral statements would be those made simultaneously to 35 or more persons who pay for access to such statements.

A definition of "publicly distributed materials" and "publicly made oral statements" by reference solely to the number of "paying" customers to whom the materials have been sent or the statements made, has the virtue of being both simple and precise. The definition is also fitting to the purpose since persons who are merely recipients of materials distributed to a number of persons or among a number of persons to whom statements have been made, even if they have made special payments, are not as likely to have that type of close relationship with the adviser that would require that the section 206(3) protections be available.⁶

Rule 206(3)-1 would not in any way diminish the obligations, under the other antifraud provisions of the applicable federal securities laws, of investment advisers who are broker-dealers to provide full disclosure of material facts to persons to whom these services are made available.

Under the general anti-fraud provisions of the federal securities laws, all persons, in connection with the purchase and sale of securities, have the duty to disclose material facts.⁷ In addition, brokers and dealers have a specific duty under the anti-fraud provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) to disclose material facts to their clients,⁸ and investment advisers have a similar duty under the anti-fraud provisions of the Act.⁹ Thus, if a broker-dealer has a relationship of trust and confidence with its customers and as principal sells to those customers securities which it recommended to them, the

broker-dealer is required to disclose to such customers the nature and extent of its adverse interest, including (1) the best price at which the securities could be purchased in the open market, and (2) the cost to the broker-dealer of the securities to be sold.¹⁰

A broker-dealer which recommends to customers a transaction in securities in which the broker-dealer is making an over-the-counter market, and who proposes to act as a principal in such transaction, may be required to disclose to the customer that it is a market-maker.¹¹ An investment adviser who issues publicly distributed materials has the duty to disclose to his customers any facts which might tend to call into question the presumption that the adviser is dispensing disinterested investment advice.¹² Thus, the statement which would be required by the proposed Rule is in addition to whatever disclosure may be required to comply with the provisions of subparagraphs (1) and (2) of section 206 (15 U.S.C. 80b-6) of the Act or other provisions of the federal securities laws concerning the adviser's interest, if any, as principal or agent in any security referred to in the investment advice.

The text of Rule 206(3)-1 (§ 275.206(3)-1) which the Commission proposes to adopt pursuant to sections 206A and 211(a) is as follows:

§ 275.206(3)-1 Exemption of investment advisers registered as broker-dealers in connection with the provision of certain investment advisory services.

(a) An investment adviser which is a broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934 shall be exempt from section 206(3) in connection with any transaction in relation to which such broker or dealer is acting as an investment adviser solely (1) by means of publicly distributed written materials or publicly made oral statements or (2) through the issuance of responses to specific requests for statistical information where such responses involve no expressions of opinion or estimates by such investment adviser as to the investment merits of a particular security; provided, however, that such materials and oral statements include a statement that if the purchaser of the advisory communication uses the services of the adviser in connection with a sale or purchase of a security which is a subject of such communication, the adviser may act as principal for its own account or as agent for another person.

(b) For the purpose of this rule, publicly distributed written materials are those which are distributed to 35 or more

persons who pay for such materials, and publicly made oral statements are those made simultaneously to 35 or more persons who pay for access to such statements.

Note: The requirement that the investment adviser disclose that it may act as principal or agent for another person in the sale or purchase of a security that is the subject of investment advice does not relieve the investment adviser of an disclosure obligation which may be imposed by subparagraphs (1) or (2) of section 206 or the other provisions of the federal securities laws.

All interested persons are invited to submit their views and comments on the above proposal to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 29, 1975. All such communications should refer to File No. S7-559 and will be available for public inspection.

By the Commission.

Dated: March 31, 1975.

[SEAL] SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 75-8740 Filed 4-1-75; 8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 1]

SAFEGUARDING THE PRIVACY OF PERSONAL INFORMATION OF INDIVIDUALS IDENTIFIED IN VETERANS ADMINISTRATION INFORMATION SYSTEMS

Social Security Numbers

Notice is hereby given that the Veterans Administration is considering promulgating a new § 1.575 series in Title 38, Code of Federal Regulations, initiating only § 1.575 at this time. The § 1.575 series will implement the provisions of Pub. L. 93-579 (88 Stat. 1897) of December 31, 1974, which amends title 5, United States Code by adding after section 552 a new section 552a to regulate the collection, maintenance, use, and dissemination of personal information of individuals identified in information systems maintained by Federal agencies.

Section 1.575 implements section 7, Pub. L. 93-579, which makes it unlawful with certain exceptions to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose a social security number and provides that any Federal agency which requests an individual to disclose a social security number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before May 2, 1975 will be considered. All written comments received will be available for public inspection at the above

⁶ The figure 35, which has been selected for the definition of the terms "publicly distributed written materials" and "publicly made oral statements", is the same figure which is designated in Rule 146(g) (1) [17 CFR 230.146(g) (1)] of the Securities Act of 1933 [15 U.S.C. 77b et seq.] (the "1933 Act") as the limit on the number of purchasers of securities in an offering that would not be deemed to be a public offering within the meaning of Section 4(2) of the 1933 Act.

⁷ Section 17(a) [15 U.S.C. 77q] of the 1933 Act, Section 10(b) [15 U.S.C. 77j] of the 1934 Act and Rule 10(b)-5 [17 CFR 240.10b-5] thereunder.

⁸ Section 15c-1 [15 U.S.C. 78o(c)-1] of the 1934 Act and Rule 15c(1)-2, 15c(1)-3, 15c(1)-4, 15c(1)-5 and 15c(1)-6 [17 CFR 240.15c1-2, 240.15c1-3, 240.15c1-4, 240.15c1-5, and 240.15c1-6] thereunder.

⁹ Section 206(1) [15 U.S.C. 80b-6(1)] and 206(2) [15 U.S.C. 80b-6(2)].

¹⁰ In the Matter of Arleen W. Hughes, 27 S.E.C. 629 (1948); *Hughes v. S.E.C.*, 174 F. 2d 969 (D.C. Cir. 1948). See also *Cant v. A.G. Becker & Co., Inc.*, 374 F. Supp. 36 (N.D. Ill. 1974).

¹¹ *Chastin v. Smith, Barney & Co., Inc.*, 438 F. 2d 1167 (2d Cir. 1971) aff'g 305 F. Supp. 489 (S.D. N.Y. 1969).

¹² See *S.E.C. v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180 (1963).

address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that it is proposed to make this new section effective December 31, 1974.

A new centerhead, note and § 1.575 are added to read as follows:

SAFEGUARDING THE PRIVACY OF PERSONAL INFORMATION OF INDIVIDUALS IDENTIFIED IN VETERANS ADMINISTRATION INFORMATION SYSTEMS¹

§ 1.575 Social security numbers in veterans' benefits matters.

(a) No one will be denied any right, benefit, or privilege provided by law be-

¹ Note: § 1.575 series implements the provisions of 5 U.S.C. 552a, which regulates the collection, maintenance, use, and dissemination of personal information.

cause of refusal to disclose to the Veterans Administration a social security number.

(b) Anyone requested by the Veterans Administration to disclose a social security number, whether the request is oral or in writing, through use of instructions or captioned spaces on applications, forms, form letters, or correspondence, will be orally counseled or advised in writing that:

(1) Disclosure of the social security number is voluntary; however, refusal may delay action on the communication.

(2) The social security number, whether disclosed voluntarily by the correspondent or ascertained by the Veterans Administration from other sources, may be necessary in the development of evidence and documentation as required by title 38, United States Code.

(3) The social security number is used in the identification of veterans and their records and in the administration of veterans' benefits.

Approved: March 27, 1975.

By direction of the Administrator.

[SEAL] **ODELL W. VAUGHN,**
Deputy Administrator.

[FR Doc.75-8518 Filed 4-1-75; 8:45 am]

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Manager, Bureau of Land Management,
P.O. Box 1397, Roswell, NM 88201.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc.75-8439 Filed 4-1-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

INSPECTION PROGRAM INVOLVING PRO- DUCERS, PROCESSORS, AND SHIP- PERS OF FISH MEAL AND RELATED PRODUCTS

Agreement With the Food and Drug Ad-
ministration and the National Oceanic
and Atmospheric Administration

CROSS REFERENCE: For a document
concerning the cooperative effort to de-
sign and implement new inspection ser-
vices to assist the fish meal industry in
developing and applying sanitation
guidelines for the control of *Salmonella*
in fish meal plants and products, see
FR Doc. 75-8512, infra.

Forest Service

ADDENDUM TO FINAL ENVIRONMENTAL STATEMENT FOR COMMUNICATION SITES ON THE CHUGACH AND TON- GASS NATIONAL FORESTS

Extension of Time

This addendum to the final environ-
mental statement, USDA-FS-FES(Adm)
R-10-73-71, was transmitted to the CEQ
on March 14, 1975. Thirty days were al-
lowed for review and comment.

Due to the late distribution date, the
due date for comments is extended to
April 28, 1975. Comments concerning the
proposed action and requests for addi-
tional information should be addressed to
Regional Forester, C. A. Yates, U.S.
Forest Service, Federal Building, P.O.
Box 1628, Juneau, Alaska 99802.

Dated: March 25, 1975.

C. A. YATES,
Regional Forester.

[FR Doc.75-8515 Filed 4-1-75;8:45 am]

Forest Service

ELK SUMMIT PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the
National Environmental Policy Act of
1969, the Forest Service, Department of
Agriculture, has prepared a final en-
vironmental statement for Elk Summit
Planning Unit, Forest Service Report
Number USDA-FS-FES(Adm) R1-74-7.

The environmental statement concerns
a proposed action to select and imple-
ment a revised land use plan for 82,627
acres of National Forest Land on the
Powell Ranger District of the Clearwater
National Forest in Idaho County, State
of Idaho. The Planning Unit is sub-
divided into eleven management units.
Management emphasis is defined and

management direction and prescriptions
are provided for each unit.

This final environmental statement
was filed with CEQ on March 25, 1975.

Copies are available for inspection
during regular working hours at the fol-
lowing locations:

USDA Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW
Washington, DC 20250

USDA Forest Service
Clearwater National Forest
Supervisor's Office
Orofino, Idaho 83544

USDA Forest Service
Northern Region
Federal Building, Room 3077
Missoula, Montana 59801

USDA Forest Service
Powell Ranger District
Powell Ranger Station
Lolo, Montana 59847

A limited number of single copies are
available upon request to Forest Super-
visor, Clearwater National Forest, Route
3, Ahsahka Road, Orofino, Idaho 83544.

Copies of the environmental statement
have been sent to various Federal, State,
and local agencies as outlined in the CEQ
guidelines.

KEITH M. THOMPSON,
*Acting Regional Forester,
Northern Region, Forest Service.*

MARCH 25, 1975.

[FR Doc.75-8436 Filed 4-1-75;8:45 am]

KILKENNY UNIT PLAN, WHITE MOUNTAIN NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the
National Environmental Policy Act of
1969, the Forest Service, Department of
Agriculture, has prepared a draft en-
vironmental statement on the Kilkenny
Unit Plan for the White Mountain Na-
tional Forest, USDA-FS-R9-DES-
(ADM)-75-03.

The environmental statement concerns
a proposed land use plan for 54,000 acres
of Forest Service land located on the
White Mountain National Forest in Coos
County in the State of New Hampshire.

This draft environmental statement
was transmitted to CEQ on March 25,
1975.

Copies are available for inspection dur-
ing regular working hours at the follow-
ing locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
Eastern Region
633 West Wisconsin Avenue
Milwaukee, Wisconsin 53203

USDA, Forest Service
White Mountain National Forest
Federal Building
719 Main St., P.O. Box 638
Laconia, New Hampshire 03246

A limited number of single copies are
available upon request to Forest Super-
visor, White Mountain National Forest,

Federal Building, 719 Main Street, P.O.
Box 638, Laconia, New Hampshire 03246.

Copies of the environmental statement
have been sent to various Federal, State,
and local agencies as outlined in the CEQ
Guidelines.

Written comments are invited from
the public, and from State and local
agencies which are authorized to develop
and enforce environmental standards,
and from Federal agencies having juris-
diction by law or special expertise with
respect to any environmental impact in-
volved for which comments have not
been requested specifically.

Written comments concerning the pro-
posed action and requests for additional
information should be addressed to For-
est Supervisor, White Mountain National
Forest, Federal Building, 719 Main
Street, P.O. Box 638, Laconia, New
Hampshire 03246. Written comments
must be received by May 25, 1975, in order
to be considered in the preparation of the
final environmental statement.

JOHN A. SANDOR,
Acting Regional Forester.

MARCH 25, 1975.

[FR Doc.75-8437 Filed 4-1-75;8:45 am]

Rural Electrification Administration

BIG RIVERS ELECTRIC CORP.

Draft Environmental Impact Statement

Notice is hereby given that the Rural
Electrification Administration has pre-
pared a Draft Environmental Impact
Statement in accordance with section 102
(2)(C) of the National Environmental
Policy Act of 1969, in connection with
a loan application from Big Rivers Elec-
tric Corporation, P.O. Box 24, Henderson,
Kentucky 42420. This project includes
financing for two 225 MW gross (each)
units to be constructed at the Robert
Reid Station and approximately 69 miles
of 161 kV transmission lines and related
terminal facilities.

Additional information may be secured
on request, submitted to Mr. David H.
Askegaard, Assistant Administrator—
Electric, Rural Electrification Adminis-
tration, U.S. Department of Agriculture,
Washington, D.C. 20250. Comments are
particularly invited from State and local
agencies which are authorized to develop
and enforce environmental standards,
and from Federal agencies having juris-
diction by law or special expertise with
respect to any environmental impact in-
volved from which comments have not
been requested specifically.

Copies of the REA Draft Environmen-
tal Impact Statement have been sent to
various Federal, State and local agencies,
as outlined in the Council on Environ-
mental Quality Guidelines. The Draft
Environmental Impact Statement may
be examined during regular business
hours at the offices of REA in the South
Agriculture Building, 12th Street and In-
dependence Avenue, SW., Washington,
D.C., Room 4310, or at the borrower ad-
dress indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Askegaard at the address given above. Comments must be received on or before June 2, 1975 to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 26th day of March, 1975.

DAVID H. ASKEGAARD,
Acting Administrator, Rural
Electrification Administration.

[FR Doc. 75-8556 Filed 4-1-75; 8:45 am]

LOWER VALLEY POWER AND LIGHT, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Lower Valley Power and Light, Inc., 416 Washington Street, Afton, Wyoming 83110 (Mailing Address: P.O. Box 188, Afton, Wyoming). The statement covers approximately 11 new miles of 115 kV transmission line from Teton to Jackson in Teton County.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Askegaard at the address given above. Comments must be received on or before June 2, 1975 to be considered in connection with the proposed action.

Final REA action will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National En-

vironmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 26th day of March, 1975.

DAVID H. ASKEGAARD,
Acting Administrator, Rural
Electrification Administration.

[FR Doc. 75-8557 Filed 4-1-75; 8:45 am]

Rural Electrification Administration TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (83 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$19,056,000 to Tri-State Generation and Transmission Association, Inc., of Denver, Colorado. This loan will provide long-term financing for approximately two-thirds of a project consisting of three, 67 MW gas-fired turbines, two fuel oil storage tanks, 78 miles of pipeline and related equipment. The Association has a commitment from the National Rural Utilities Cooperative Finance Corporation for the long-term financing of the balance of the cost without a REA guarantee.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Wendell Garwood, Manager, Tri-State Generation and Transmission Association, Inc., P.O. Box 29198, Denver Colorado 80229.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Garwood. The right is reserved to give such consideration and make such evaluation, or other disposition of all proposals received, as Tri-State and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 26th day of March 1975.

DAVID H. ASKEGAARD,
Acting Administrator,
Rural Electrification Administration.

[FR Doc. 75-8494 Filed 4-1-75; 8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards ENCRIPTION ALGORITHM FOR COMPUTER DATA PROTECTION

Request for Comments

Correction

In FR Doc. 75-6788 appearing at page 12134 in the issue of Monday, March 17, 1975 make the following corrections:

1. At page 12135, at the top of the 3d column, the heading to the table should read "IP-1".

2. At page 12137, the table appearing at the top of the page should be headed by "S_i" with only "Column No." appearing on the 2d line.

3. At page 12138, in the table headed "S_i" the number "2" appearing in the last column on the last line should read "12".

4. At page 12138, in the first column, the first line of the first paragraph of text should read, "Recall that K_i for 1n16, is the block".

National Oceanic and Atmospheric Administration

INSPECTION PROGRAM INVOLVING PRODUCERS, PROCESSORS, AND SHIPPERS OF FISH MEAL AND RELATED PRODUCTS

Agreement With the Food and Drug Administration and the Animal and Plant Health Inspection Service

On May 11, 1973, the National Marine Fisheries Service (NMFS) published a proposal in the FEDERAL REGISTER (38 FR 12334) to act favorably upon a request by the National Fish Meal and Oil Association and other industry groups to design and implement new inspection services to assist the fish meal industry in developing and applying sanitation guidelines for the control of *Salmonella* in fish meal plants and products. Fish meal inspection services were implemented by the NMFS in 1973, and were generally modeled after a similar but discontinued program conducted by the United States Department of Agriculture which was recognized by cooperating agencies to be effective in the control of *Salmonella*.

To gain formal recognition and cooperation regarding these newly implemented inspection services, the National Marine Fisheries Service, in conjunction with the Animal and Plant Health Inspection Service, and the Food and Drug Administration, have drawn up an agreement concerning certain related objectives in carrying out their respective responsibilities under the Agricultural Marketing Act, the Fish and Wildlife Act, and the Federal Food, Drug, and Cosmetic Act relative to the conduct of the NMFS operated inspection program for fish meal plants and products. The agreement, which sets forth the working arrangements being followed or adopted in the interest of the public so that each agency will discharge as effectively as possible its inspection and standardization activities

for fish meal plants and products, reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, FOOD AND DRUG ADMINISTRATION, AND DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE

INSPECTION OF INDUSTRIAL FISHERY PRODUCTS INTENDED FOR ANIMAL FEED USE

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. In fulfilling its responsibilities under the act, FDA directs its activities toward the protection of the public health of the nation by ensuring that foods are safe and wholesome and that products are honestly and informatively labeled. This is accomplished by inspecting the processing and distribution of foods and examining samples thereof, to assure compliance with the act. FDA also promulgates under the act, mandatory standards of identity, quality, and fill of container for food products after appropriate notices and public procedures.

The National Marine Fisheries Service (NMFS), under authorities established by the Agriculture Marketing Act and the Fish and Wildlife Act, is responsible for (1) the development and advancement of commercial grade standards for fishery products and better health and sanitation standards in the industry and (2) furnishing inspection, analytical, and grading services and issuing certificates to producers, processors, shippers, receivers, or interested parties. Its major purpose is to encourage and assist the industry in improving the quality and safety of its products, and to provide objective information by means of inspection and official certification concerning the class, quality, quantity, identity, or condition of products which will be of maximum assistance to interested parties engaged in the production, processing, and marketing of fish and fishery products.

The Animal and Plant Health Inspection Service of the Department of Agriculture, under the authority of the Meat and Poultry Inspection Acts, is responsible for the wholesomeness of these products for human consumption as well as the protection and improvement of animal and plant health.

These agencies have certain common or related objectives in carrying out their respective regulatory and service activities. This Memorandum of Understanding sets forth the working arrangements which are being followed or adopted to enable each agency to discharge, as effectively as possible, its responsibilities related to the inspection and standardization activities for industrial fish products intended for animal feed use.

Whereas, the parties recognized since early 1966 the need for coordinating efforts to avoid duplication and to provide for the most efficient use of resources; and

Whereas, the informal working agreement initiated in 1967 between APHIS and FDA has been discontinued and NMFS has agreed to continue program operations for industrial fishery products under its voluntary fisheries inspection program; and

Whereas, the purpose of this Memorandum of Understanding is to update, specify and formalize the current phase of an agreement, directed toward elimination of Salmonella from industrial fishery products.

Liaison representatives:
Herbert Friedlander
Deputy Director, Division of Compliance

Bureau of Veterinary Medicine
Food and Drug Administration
Telephone: 301-443-3336

Dr. Irving Sackett
Director of Inspection Services
Fishery Product Inspection and Safety Division

National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Telephone: 202-343-8484

Dr. John W. Walker
Senior Staff Veterinarian, Poultry Diseases, VS
Animal and Plant Health Inspection Service
Department of Agriculture
Telephone: 301-436-8438

SERVICES TO BE FURNISHED

A. The National Marine Fisheries Service will:

1. Provide a voluntary Salmonella inspection service for fish meal plants and products under its voluntary fisheries inspection program similar to that previously operated by APHIS.

2. Not carry out inspections and testing of products from plants under FDA investigation or enforcement procedures.

3. Provide the appropriate FDA field office, periodically or on request, with a list of firms participating in Phase I, Phase II, and Phase III of the Salmonella inspection program for fish meal plants along with any pertinent inspectional information data, and to revise such lists as needed.

4. Drop from NMFS-state program firms failing to meet the time schedule requirements of Phase II, or to make corrections recommended by the NMFS cooperative program.

5. Provide the appropriate FDA field office inspectional and analytical data on those plants failing to meet the agreed upon timetable for corrections.

6. Provide FDA headquarters (Bureau of Veterinary Medicine) with periodic reports on program progress.

B. The Food and Drug Administration will:

1. Recognize and support the Salmonella control program offered by the Department of Commerce as providing a desirable means of developing and maintaining Salmonella surveillance for participating fishmeal plants.

2. Recognize that the NMFS service provided in connection with voluntary contract inspection of fishmeal processing establishments contributes to and aids FDA in enforcement of pertinent statutes. The NMFS inspection service will not diminish FDA's authority to inspect but should minimize FDA inspections in establishments under NMFS contract inspection. In this regard NMFS inspectors shall routinely notify contract establishments of pertinent FDA requirements and advise them on how to comply and verify compliance. NMFS inspectors may not act as FDA inspectors but their inspections and consultations with FDA should reduce the necessity for FDA inspections.

3. Provide NMFS with a list of firms known by FDA to be manufacturers of industrial fish products intended for animal feed use including those identified as not engaged in interstate commerce.

4. Provide NMFS headquarters with timely status reports on the FDA-State-Industry Cooperative Salmonella Program. Provide timely notification to appropriate NMFS field personnel of all official seizure actions taken by FDA on industrial fish intended for animal feed use which are processed in NMFS inspected plants. This would include the name of the product, name of the plant, and the basis for the action taken.

C. The Animal and Plant Health Inspection Service of USDA will:

1. Support the principle of Salmonella control activities and recognize the value of, and continuation of inspection services of fish meal plants and products by NMFS.

D. It is mutually understood and agreed that:

1. FDA, NMFS, and APHIS, will participate in periodic meetings with each other and with industry to promote better communication and understanding of regulations, policy, and statutory responsibilities, and to serve as a clearing house for questions and problems posed by individual firms.

2. The two agencies, FDA and NMFS, will keep up-to-date records of the work carried out under the provisions of this agreement, such records to be made available to the cooperating parties upon request.

3. The two agencies, FDA and NMFS, will collaborate in furnishing reports of the progress of the work and such other reports as may be mutually agreed upon from time to time between the two parties.

4. The responsibilities assumed by each of the cooperating parties are contingent upon funds being available from which the expenditures legally may be met.

5. This understanding is entered into under the authority of the Economy Act of 1932, as amended (31-USA-686).

6. This Memorandum of Understanding shall become effective upon date of final signature and shall continue indefinitely, but may be modified or discontinued at the request of any party.

Requests for termination or any major change shall be submitted to the other parties for consideration not less than 60 days in advance of the effective date desired.

Approved:

Dated: October 31, 1974.

ROBERT M. WHITE,
Administrator, National Oceanic
and Atmospheric Administration.

Dated: October 3, 1974.

A. M. SCHMIDT,
Commissioner, Food and Drug
Administration.

Dated: November 13, 1974.

E. E. NORRIS,
Acting Administrator, Animal
and Plant Health Inspection
Service.

Effective date. This agreement becomes effective April 2, 1975.

Approved:

ROBERT M. WHITE,
Administrator.

[FR Doc. 75-8512 Filed 4-1-75; 8:45 a.m.]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

PANEL ON REVIEW OF DENTIFRICES
AND DENTAL CARE AGENTS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App. I), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Panel on Review of Dentifrices and Dental Care Agents.	May 7 and 8, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open May 7, 9 a.m. to 12 noon, closed May 7 after 12 noon, closed May 8. Michael D. Kennedy, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing dentifrices and dental care agents.

Agenda. Open session: Discussion of the "The Relationship Between Bioavailability of Fluorides and their Anticaries Effectiveness". The guest speakers will include: Dr. John Hefferson, Dr. Finn Brudevold, Dr. Aaron Trubman, and Dr. Hershel Horowitz. Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter dentifrices and dental care drug products under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself for full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the

Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: March 27, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc. 75-8461 Filed 4-1-75; 8:45 am]

INSPECTION PROGRAM INVOLVING PRODUCERS, PROCESSORS, AND SHIPPERS OF FISH MEAL AND RELATED PRODUCTS

Agreement With National Oceanic and Atmospheric Administration and the Animal and Plant Health Inspection Service

CROSS REFERENCE: For a document issued jointly by the National Oceanic and Atmospheric Administration, the Animal and Plant Health Inspection Service and the Food and Drug Administration concerning the cooperative effort to design and implement new inspection services to assist the fish meal industry in developing and applying sanitation guidelines for the control of *Salmonella* in fish meal plants and products, see FR Doc. 75-8512, supra.

Office of Education

EMERGENCY SCHOOL AID ACT

Closing Date for Receipt of Proposals for Educational Television Projects

The Commissioner of Education hereby gives notice that pursuant to sections 711 and 704(b) of the Emergency School Aid Act (20 U.S.C. 1610 and 1603(b)), proposals are being accepted from public and private nonprofit agencies, institutions, and organizations for Educational Television projects. Processing of these proposals will be subject to the availability of funds.

Proposals for assistance must be received by the U.S. Office of Education Application Control Center on or before May 19, 1975.

A. *Proposals sent by mail.* A proposal sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202,

Attention: 13.530. A proposal sent by mail will be considered to be received on time by the Application Control Center if:

(1) The proposal was sent by registered or certified mail not later than May 14, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The proposal is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. Hand delivered proposals. A proposal to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered proposals will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Proposals will not be accepted after 4 p.m. on the closing date.

C. Program information and forms. Information and proposal forms may be obtained from the U.S. Office of Education, Special Projects Branch, Equal Educational Opportunity, Room 2017, 400 Maryland Avenue, SW., Washington, D.C. 20202.

D. Project periods. Awards of assistance will be made pursuant to this notice for activities commencing no earlier than July 1, 1975.

E. Applicable regulations. Awards of assistance made pursuant to this notice will be subject to (1) the regulations contained in 45 CFR Part 185, and, (2) upon their becoming effective, the amendments thereto published as a notice of proposed rule making on March 28, 1975 at 40 FR 14166 and, (3) except where inconsistent with Part 185, the Office of Education General Provisions Regulations relating to direct project assistance programs (45 CFR Parts 100 and 100a). Proposers' attention is directed in particular to Subpart H, Educational Television, of the notice of proposed rule making.

(Catalog of Federal Domestic Assistance Number 13.530, Emergency School Aid—Educational Television)

(20 U.S.C. 1610 and 1603(b))

Dated: March 27, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-8564 Filed 4-1-75; 8:45 am]

RIGHT TO READ SCHOOL BASED PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Coop-

erative Research Act, Pub. L. 83-531, as amended, 20 USC 331, applications are being accepted for new grants under the Right to Read School Based Program.

Applications must be received by the U.S. Office of Education Application Control Center on or before May 9, 1975.

A. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.533. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 5, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. Hand delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. Authority. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR 100a), the General Regulations for Right to Read (45 CFR Part 151, Subpart A; published in the FEDERAL REGISTER on June 30, 1974 at 39 FR 22147). Final regulations governing the School Based Program are published in this issue of the FEDERAL REGISTER (45 CFR Part 151, Subpart C), and will govern the operation of the program.

D. Program information and forms. Information and application forms may be obtained from the Right to Read Program, U.S. Office of Education, Room 2131, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 331a(a)(1))
(Catalog of Federal Domestic Assistance Number 13.533, Right to Read—Elimination of Illiteracy)

Dated: March 3, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-8465 Filed 4-1-75; 8:45 am]

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled was established, by section 133(a)(1) of Pub. L. 91-517, which was signed on October 30, 1970, to advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of the Act and study and evaluate programs authorized by the Act with a view to determining their effectiveness in carrying out the purposes for which they were established.

Notice is hereby given, pursuant to Pub. L. 92-463 that the National Advisory Council on Services and Facilities for the Developmentally Disabled will hold a meeting on April 28 and 29, 1975. The meeting will be in Room 5051 Health, Education, and Welfare North Building, 330 Independence Avenue SW., Washington, D.C. from 9 a.m. to 5 p.m. on April 28th and 9 a.m. to 3:30 p.m. on April 29th. Agenda: Executive Secretary's Report; Status of Developmental Disabilities Legislation; University Affiliated Facilities Report; De-Institutionalization and Community Alternatives; Comprehensive Health Planning; Recommendations for the Secretary.

This meeting open for public observation.

Further information on the Council may be obtained from Francis X. Lynch, Executive Secretary, National Advisory Council on Services and Facilities for the Developmentally Disabled, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone: Area Code 202-245-0335.

FRANCIS X. LYNCH,
Executive Secretary, National
Advisory Council on Services
and Facilities for the Developmentally Disabled.

MARCH 26, 1975.

[FR Doc.75-8486 Filed 4-1-75; 8:45 am]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet on Thursday and Friday, April 24-25, 1975 from 9 a.m. to 5 p.m. in Room 1137, HEW—North Building, 330 Independence Ave. SW., Washington, D.C. The agenda includes a meeting with the Secretary to discuss the Committee's issues of concern and a panel presentation on vocational education and women.

Interested persons wishing to address the Committee, should contact the Acting Executive Secretary by COB Monday, April 21st. Phone: 202-245-8454. Written statements received by April 21st will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Dated: March 27, 1975.

SANDRA S. KRAMER,
Acting Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.75-8487 Filed 4-1-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-75-313]

AREA DIRECTOR, MILWAUKEE AREA OFFICE

Designation and Delegation of Authority

Designation of Acting Area Director—Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of the Area Director, with all the powers, functions, and duties re-delegated or assigned to the Area Directors: Provided, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Housing Production and Mortgage Credit.
3. The Director, Community Planning and Development.
4. The Area Counsel.
5. The Director, Housing Management.

(36 FR 3389, Feb. 23, 1971, as amended at 37 FR 746, Jan. 18, 1972).

Effective date.—This designation and delegation shall be effective as of February 10, 1975.

JOHN E. KANE,
Area Director,
Milwaukee Area Office, Reg. V.

[FR Doc.75-8458 Filed 4-1-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of Pub. L. 92-463, notice is hereby given that the Microwave Landing System (MLS) Advisory Committee will hold a meeting on April 22, and 23, 1975, beginning at 8:30 a.m. in Conference Room 3201, Trans Point Building, 2100 2nd Street SW., Washington, D.C.

Topics to be considered include: the review of operational and design requirements for the Microwave Landing System (MLS); procurement plans for Phase III;

current efforts on monitoring, L-Band Distance Measuring Equipment for MLS, flare guidance; activities related to the ICAO submission; and discussion of MLS benefits.

Anyone desiring further information on the meeting should contact Mr. G. Jensen, Executive Director, Microwave Landing System Advisory Committee, Federal Aviation Administration, 2100 2nd Street SW., Washington, D.C., 20591, Telephone 202-426-2072. The meeting will be open to the public.

Issued in Washington, D.C. on March 20, 1975.

GENE JENSEN,
Executive Director, Microwave
Landing System Advisory
Committee.

[FR Doc.75-8496 Filed 4-1-75;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition No. HS-75-6]

JOHNSTOWN AND STONY CREEK RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Johnstown and Stony Creek Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-6, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before May 2, 1975, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on March 28, 1975.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.75-8497 Filed 4-1-75;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX75-5; Notice 2]

POLAR CO.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

The National Highway Traffic Safety Administration has decided to deny The Polar Company a temporary exemption from Motor Vehicle Safety Standard No. 121, Air Brake Systems, which it had sought on grounds of substantial economic hardship.

Notice of petition for the exemption was published in the FEDERAL REGISTER on February 4, 1975 (40 FR 5182), and an opportunity afforded for comment. Polar, of Holdingford, Minnesota, manufactures air-braked trailers, required as of January 1, 1975, to conform to Standard No. 121.

Polar stated that its primary and secondary suppliers had failed to deliver components necessary for conformance (air brakes and axles) as promised, and proposed delivery dates extend into the first half of 1975. Accordingly, Polar asked for a 6-month exemption from the standard, at the end of which it will comply. Because of its limited sales in a competitive field the company argued that a 6-month shutdown could result in a loss of its entire market. The company's net income in the fiscal year ending May 31, 1974, was \$427,000. It further argued that an exemption would be in the public interest, as Polar "is the largest employer in the small rural area of Holdingford, Minnesota," and a denial would mean a loss of jobs, perhaps permanent, for its 125 employees.

No comments on the petition were received during the comment period. Subsequently, however, objections to it were filed by the Heil Corporation and by Robert W. Berry, Esq., on behalf of Brenner Tank Company and Dairy Equipment Company. Heil stated "there is an excess of 121 components available and we will be happy to supply Polar Manufacturing Company with all they need at our cost." Mr. Berry stated "there is ample evidence that suppliers have such conforming components available in stock." Both comment on the unfair competitive advantage to other trailer manufacturers that an exemption to Polar would provide.

Polar's is the only petition for exemption from Standard No. 121 that the NHTSA has received from a trailer manufacturer. The agency has talked with the prime suppliers Polar listed in its petition, and has been assured that a supply problem no longer exists. Evidently, therefore, Polar can now begin to manufacture conforming trailers.

For these reasons, the NHTSA finds that insufficient justification has been presented for an exemption from Standard No. 121, and the petition by Polar Company is denied.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.51.)

Issued on March 26, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-8448 Filed 4-1-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 17207; Order 75-3-115]

ALLEGHENY AIRLINES, INC.

Certificate Amendment; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of March, 1975.

On February 5, 1975, Allegheny Airlines filed a petition for an order to show cause why its certificate for route 97-F should not be amended so as to authorize nonstop service between Rochester and Toronto,¹ by modifying segment 2 (Erie-Buffalo-Toronto) to read as follows:

2. Between the terminal point Toronto, Canada, the intermediate points Erie, Pa., and Buffalo, N.Y., and the terminal point Rochester, N.Y.

No answers in opposition have been filed in response to Allegheny's application.

Upon consideration of Allegheny's application and all relevant facts, we have decided to issue an order to show cause which proposes to grant the requested route amendment. We tentatively find and conclude that the public convenience and necessity require the amendment of Allegheny's certificate for route 97-F so as to authorize nonstop service between Toronto and Rochester, N.Y., by the modification of segment 2 thereof in the manner indicated above.

In support of our ultimate conclusion, we make the following tentative findings and conclusions. Allegheny is already certificated at the points in question and holds nonstop authority between Rochester and Toronto by exemption (see fn. 1, *supra*). The carrier presently operates six nonstop jet flights per day in the market, five of which continue to New York and one of which continues to Washington.² This service constitutes the only direct service in the market. In the Airline Route Agreement entered into between the United States and Canada and signed on May 8, 1974, route C.1 provides, *inter alia*, for nonstop rights for a U.S. carrier between Rochester and Toronto. In these circumstances, grant of Allegheny's application will permit the carrier to continue to provide a needed service and make use of new international authority,³ without significant diversion from any other U.S. carrier. Further, we note that Allegheny's application is unopposed.⁴

Interested persons will be given 30 days following adoption of this order to

show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending Allegheny Airlines' certificate of public convenience and necessity for route 97-F by modifying segment 2 thereof to read as follows:

2. Between the terminal point Toronto, Canada, the intermediate points Erie, Pa., and Buffalo, N.Y., and the terminal point Rochester, N.Y.;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;⁵

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served on Allegheny Airlines, Inc.; Eastern Air Lines, Inc.; Delta Air Lines, Inc.; the Mayor of Rochester, N.Y.; the Governor of New York; and the U.S. Postal Service.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 75-8535 Filed 4-1-75; 8:45 am]

⁵ All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket 26494; Agreement C.A.B. 24822, R-1 through R-19; Order 75-3-98]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to South Pacific Air Fares; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of March, 1975.

By Order 75-1-67, dated January 14, 1975, the Board established procedural dates for the receipt of carrier justification in support of an agreement filed by the International Air Transport Association (IATA) for effect April 1, 1975 through March 31, 1976, which would increase, with certain exceptions, all fares for U.S.-originating travel over the South Pacific by 13 percent¹ and impose stopover restrictions on various promotional fares not heretofore so restricted. In our order requesting justification and public comments the Board specifically addressed itself to certain anomalies in the proposed fare structure and set forth a format for the presentation of carrier data in order that the agreement might be properly evaluated. On February 27, 1975, Pan American World Airways, Inc. (Pan American), the only U.S. air carrier currently providing service over the South Pacific, submitted its justification. No comments have been received.

Pan American justifies the proposed fare increases on the basis of a need for additional revenue and improvement in its return on investment. The carrier alleges that without the proposed fare increases, it would realize a return on investment of 7.22 percent on its scheduled passenger service, for the year ending March 31, 1976. With the proposed increases, its scheduled passenger service would produce a return on investment of 13.26 percent. Under present fares, Pan American forecasts 995.4 million revenue passenger-miles and 2,136.0 million available seat-miles, for a passenger load factor of 46.6 percent.² With the proposed fares, Pan American projects 936.4 million revenue passenger-miles, and 2,136.0 available seat-miles, producing a load factor of 43.84 percent. In response to the Board's specific questions as to certain fare structure anomalies, Pan American responds that the differences in yield between certain city pairs results from the Board's insistence that IATA fares be held to the combination of local sector fares over Honolulu; that the only fares in the structure which offer a discount greater than 50 percent are the GIT and affinity fares; and that

¹ Economy fares from Honolulu and the U.S. west coast to Papeete would be increased by 20 and 15 percent respectively while the Honolulu-Papeete first-class fare would be increased by 18 percent.

² This compares with historical results for the year ended September 30, 1974 of 879.3 million revenue passenger-miles, 1,746.4 million available seat-miles, and a load factor of 50.35 percent.

¹ Allegheny (and its predecessor Mohawk) has been operating nonstop service between Rochester and Toronto since 1966 pursuant to exemption authority granted by the Board in order E-23845, dated June 22, 1966.

² OAG, Mar. 1, 1975.

³ Until the recently amended bilateral, Allegheny's Canadian authority was based upon an exchange of notes between the United States and Canada.

⁴ We further tentatively find that Allegheny is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation pursuant to the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder. We also tentatively find that the proposed new authority should be granted on a subsidy-ineligible basis, and we shall modify condition (5) in this connection.

the Honolulu-Papeete group inclusive tour fare is set at the same level as the individual tour fare at the insistence of one foreign-flag carrier. It is alleged that, in any event, these group inclusive tour fares are very little used.

In the evaluation of any IATA agreement, the Board must consider not only the impact of the agreement upon the traveling public and the need of the carriers for increased revenues, but also what impact, if any, the agreement would have on the overall operations of the carriers providing service in the particular geographical area involved. While the Board has acknowledged that certain fare or rate increases may be in order because of increased costs, it has also determined that a carrier's overall financial position in a given area of operation may indicate its ability to absorb those particular cost increases and, in such circumstances, proposed increases have been disapproved.

To enable this sort of evaluation, the Board requested justification of the agreement here under consideration in a specified format, since Pan American's Form 41 recurrent reports are stated in terms of total Pacific operations—encompassing services to/from the mainland over North/Central and South Pacific routes as well as intra-Pacific services.² Specifically, the requested format was to proceed from Form 41 data through itemized exclusions which would have separately and successively isolated out North/Central Pacific services, intra-Pacific services, South Pacific all-cargo services, and lastly South Pacific mail and cargo service performed in combination aircraft: with the net result being an isolation of operating results stemming solely from South Pacific passenger service. Pan American has provided the latter. However, it has lumped together all those operations designated for exclusion in one aggregate sum and, thus, makes it impossible to evaluate the agreement before us in the context of the carrier's current overall experience in this rate-making area on the basis of current information. As a result, it is necessary to fall back in part upon data which Pan American furnished on November 15, 1974 in support of fuel-related fare and rate increases then being proposed.⁴

In November 1974, Pan American projected a return from combination service for the year ending September 1975 of 9 percent (including belly cargo and

mail), and a return from all-cargo service of 35 percent—for an overall return in South Pacific service of 11.4 percent (Appendix III).⁵ The Board concluded that, after certain indicated adjustments were made, this composite return would be in excess of 14 percent.⁶ The carrier now projects a return from scheduled passenger service only for the year ending March 1976 of 7.22 percent at present fare levels. We attribute the difference between this projection and that of 9 percent made earlier to the exclusion of belly cargo and mail, since it would seem that the lapse of only three and one-half months could hardly be expected to alter expectations significantly. By the same token, we believe it reasonable to rely upon a return in all-cargo service for the year ending March 1976 which approximates the 35 percent earlier forecast for the year ending September 1975. The inescapable conclusion, in the absence of more current and refined data, would seem to be that the proposed increase in passenger fares on the South Pacific route is not necessary to provide Pan American with overall earnings which are consistent with the Board's 12 percent benchmark. Stated differently, approval of the agreement which, by Pan American's estimate, will produce a 13.26 percent return in scheduled passenger service alone, is unnecessary to ensure adequate earnings from operations in this rate-making entity, and could well result in excessive profits to the carrier.

Aside from this most basic issue, Pan American's traffic projections raise some question. Pan American's scheduled passenger load factor over the South Pacific for the year ended September 1974 was 50.35 percent. For the year ending March 1976 at present and proposed fares, the

carrier projects load factors of 46.60 percent and 43.84 percent, respectively. This load factor decline is attributable primarily to a 12 percent increase in capacity and, in the Board's opinion, is incompatible with the dictates of today's environment that airlines hone their services more closely to demand.

As for Pan American's responses to the specific questions on fare structure raised in our procedural order, we accept its explanation that the distortions in yield are caused by the Board's insistence that fares be held to a combination of local sector fares over Hawaii. However, we are not persuaded by Pan American's contention that a continuation of discounts in excess of 50 percent is warranted simply by past practice. We also continue to be unpersuaded that GIT and IIT fares should be set at the same level. To the contrary, while we are not disapproving the agreement on these counts, such anomalies are clearly inconsistent with the principles of a rational cost-based transportation system, and we will continue to seek their elimination in the future. On the other hand, the imposition of stopover charges on promotional fares is a move in the right direction and we would urge the carriers to include such charges in any revised agreement.

For the reasons stated, the Board is unable to conclude that the agreement warrants approval insofar as fares to/from the United States are concerned and, accordingly, it will be disapproved. Various resolutions contained in the instant agreement which do not relate to basic fares and charges will be approved subject to conditions previously imposed by the Board.

Pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, the Board makes the following findings:

(1) It is not found that the following resolutions incorporated in Agreement C.A.B. 24822 are adverse to the public interest or in violation of the Act subject, where applicable, to previously imposed conditions:

* Appendices I through III filed as part of the original document.

* Board adjustments to Pan American's November justification based on current fares and rates indicated a rate of return of 11.8 percent in combination services and 41.2 percent in all-cargo services.

Agreement CAB	IATA No.	Title	Application
24822:			
R-1.....	000b	South Pacific-Special Effectiveness Resolution (Tie-In).....	3/1 South Pacific.
R-2.....	001f	Special Emergency Escape for (South Pacific) Agreement (Revalidating and Amending).....	3/1 South Pacific.
R-3.....	002	Standard Revalidation Resolution.....	3/1 South Pacific.
R-4.....	014a	Construction Rule for Passenger Fares (Amending).....	3/1 South Pacific.
R-6.....	022g	JT3/1 (South Pacific) Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending).....	3/1 South Pacific.
R-7.....	022t	JT3/1 (South Pacific) Special Rules for Sales of Passenger Air Transportation (New).....	3/1 South Pacific.
R-9.....	000	Economy-Class Conditions of Service (Amending).....	3/1 South Pacific.

(2) It is found that the following resolutions incorporated in Agreement C.A.B. 24822, are adverse to the public interest and in violation of the Act insofar as they would apply in air transportation as defined by the Act:

² Order 75-1-67 which established the procedural schedule for justification and comments relative to the agreement.

³ Those increases were disapproved in light of the carrier's already sufficient earnings position (Order 74-12-23).

Agreement CAB	IATA No.	Title	Application
24822:			
R-5.....	015a	South Pacific Proportional Fares (Revalidating and Amending).....	3/1 South Pacific.
R-8.....	056a	South Pacific First-Class Fares.....	3/1 South Pacific.
R-10.....	066a	South Pacific Economy-Class Fares.....	3/1 South Pacific.
R-11.....	070b	South Pacific 28-Day Extension Fares (Revalidating and Amending).....	3/1 South Pacific.
R-12.....	070p	South Pacific 23- and 30-Day Extension Fares (Revalidating and Amending).....	3/1 South Pacific.
R-13.....	071j	JT3/1 Advance-Purchase Extension Fares South Pacific (Revalidating and Amending).....	3/1 South Pacific.
R-14.....	076s	JT3/1 South Pacific Group Fares (Revalidating and Amending).....	3/1 South Pacific.
R-15.....	076u	JT3/1 South Pacific Affinity/Own Use Incentive Group Fares (Revalidating and Amending).....	3/1 South Pacific.
R-16.....	080d	South Pacific 23-Day Individual Inclusive Tour Fares (Revalidating and Amending).....	3/1 South Pacific.
R-17.....	080m	South Pacific 35-Day Individual Inclusive Tour Fares (Revalidating and Amending).....	3/1 South Pacific.
R-18.....	084d	JT3/1 South Pacific Group Inclusive Tour Fares (Revalidating and Amending).....	3/1 South Pacific.
R-19.....	084dd	JT3/1 South Pacific Group Inclusive Tour Fares (Revalidating and Amending).....	3/1 South Pacific.

Accordingly, it is ordered, That:

1. Those portions of Agreement C.A.B. 24822 set forth in finding paragraph (1) above, be and hereby are, approved subject, where applicable, to conditions previously imposed; and

2. Those portions of Agreement C.A.B. 24822 set forth in finding paragraph (2) above, be and hereby are, disapproved as they apply in air transportation as defined by the Act.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-8430 Filed 4-1-75; 8:45 am]

[Docket 26494: Agreement C.A.B. 24964, R-1 through R-46, R-48 through R-50, R-52 through R-62; Order 75-3-96]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Approving Agreements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of March, 1975.

By Order 75-2-102 (February 25, 1975) the Board approved increases in U.S.-Caribbean and U.S.-Central/South America fares, and reaffirmed the increases in most U.S.-Mexico fares which had been approved previously in Order 74-12-49 (December 13, 1974). Increases in U.S. west coast-Mexico fares were disapproved. The increases were contained in agreements among the carrier members of the International Air Transport Association (IATA).

The Board acted on these agreements, which involved increases of approximately six percent in U.S.-Mexico fares, four percent in U.S.-Caribbean fares, and eight percent in U.S.-Central/South America fares, after careful evaluation of detailed economic justification submitted by the U.S. carriers as recently as January 22, 1975 in response to a specific Board request (Order 74-12-49). The carrier forecasts, together with data from Form 41 reports, indicated that the U.S. carriers would earn the following composite rates of return on investment in

each ratemaking area during the year ending September 30, 1975:

[In percent]

	Present fares	Proposed fares
United States-Mexico (Excluding U.S. west coast)...	13.9	11.4
United States-Caribbean...	(10.9)	(8.2)
United States-Central/South America.....	7.5	10.6

¹ Return experienced during the 12 months ended September 30, 1974, before the new higher fares went into effect.

The Board's analysis indicated that in none of the areas would the U.S. carriers realize earnings above the 12 percent benchmark, and accordingly the respective fare increases were approved. At the same time, however, the Board stated that the levels of return forecast in the U.S.-Mexico and U.S.-Central/South America markets indicated that further material increases in those markets were not justifiable for the year immediately ahead. The Board disapproved the increase in U.S. west coast-Mexico fares on the basis that Western Air Lines, Inc., the only U.S. carrier providing direct service, was currently experiencing very profitable results (20.0 percent return on investment for the year ended September 30, 1974) in its Mexico operations; that Western's forecast of a decline in return to about 10 percent was questionable; and that in any event Western's present earnings were adequate and no showing had been made that a fare increase was warranted.²

A new IATA agreement has now been filed setting forth a proposed Western Hemisphere fare structure for effect from April 1 or April 15, 1975 through April 30, 1976. The agreement proposes an increase of about six percent in U.S.-Mexico fares; five percent in U.S.-Caribbean fares (nine to ten percent for first-class fares); and increases ranging from four to ten percent in U.S.-Central/South America fares. As noted above, the Board believes U.S. carrier earnings in the Mexico and Central/South America markets to be adequate at present fares,

² Although Western is not an IATA member, it proposed to match the IATA fare increase and was directed to submit justification in the same format as the IATA carriers.

and accordingly we will herein disprove those portions of the agreement which would increase fares in those areas.² We will, however, approve various ancillary resolutions which do not affect fare levels. In the Caribbean, on the other hand, the carriers are generally experiencing substantial operating losses, and are expected to achieve a composite ROI of -8.2 percent at present fares. Assuming a five percent increase in scheduled passenger revenues, with no allowance for demand elasticity, and the same level of operations and costs as previously forecast, the carriers would achieve a composite ROI of -2.0 percent.

The Board is proceeding to act on the instant agreements without an additional

² The Mexico agreement also proposes introduction of individual inclusive tour (IIT) fares to replace the current group inclusive tour (GIT) fares in most U.S. east coast and midwest-Mexico markets. That proposal is the subject of Order 75-3-97 issued concurrently herewith.

request for justifications and comments because we have just completed a detailed evaluation of carrier justifications covering the same ratemaking areas treated in this order. We believe any additional material submitted at this time would be essentially duplicative, and would merely reaffirm the conclusions reached herein and in Order 75-2-102. However, if any person believes that it has new data which would sustain different findings, e.g., which would clearly show that further fare increases are justified to/from Mexico and Central/South America, it is of course free to bring such material to the Board's attention under established procedures.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24964 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24964			
R-1	001b	Special Effectiveness Resolution (Tie-In)	1 (Mexico).
R-2	001b	Special Effectiveness Resolution (Tie-In)	1 (Caribbean).
R-3	001b	Special Effectiveness Resolution (Tie-In)	1 (C/S America).
R-4	001kk	Special Resolution for Review of TCI Fare Construction Rules (New).	1.
R-5	001oo	Special Escape for TCI Agreement (New).	1.
R-6	002	Standard Revalidation Resolution	1 (Mexico).
R-7	002	Standard Revalidation Resolution	1 (Colombia).
R-8	002	Standard Revalidation Resolution	1.
R-9	002	Standard Revalidation Resolution	1.
R-10	003	Standard Revalidation Resolution (New)	1.
R-11	012f	Definition of Areas within TCI (New)	1.
R-12	014a	Construction Rule for Passenger Fares (Revalidating and Amending).	1.
R-13	014y	Construction Rule for High Density Class Fares (Revalidating and Amending).	1.
R-14	021bb	Special Conversion Rates (TCI) (Revalidating and Amending)	1.
R-15	021e	Brazil-Sales in Cruzetres (New)	1.
R-16	038	Advertising of Propeller Fares (Revalidating and Amending)	1.
R-17	050	First-Class Conditions of Service (Amending)	1.
R-18	051b	TCI First-Class Fares	1 (Caribbean).
R-22	051x	USA/Canada-Greenland First-Class Fares	1.
R-23	060	Economy-Class Conditions of Service	1.
R-25	061b	TCI Economy-Class Fares	1 (Caribbean).
R-26	061x	USA/Canada-Greenland Economy-Class Fares	1.
R-33	070i	TCI 21-Day Excursion Fares, Canada-Bermuda/Caribbean (Revalidating and Amending).	1.
R-38	073t	TCI Advance-Purchase Travel Group Fares (USA/Canada/Mexico-Bermuda/Caribbean/Venezuela) (Revalidating and Amending).	1.
R-42	076q	TCI Own Use and Incentive Group Fares (Bermuda and Caribbean) (Revalidating and Amending).	1.
R-43	080L	TCI 10-Day Individual Inclusive Tour Fares—USA-Bermuda/Bahamas/Caribbean (Revalidating and Amending).	1.
R-45	080p	TCI 10/14-Day Individual Inclusive Tour Fares—Canada and Bermuda/Bahamas/Caribbean (Revalidating and Amending).	1.
R-53	084i	TCI 14-Day Group Inclusive Tour Fares—Netherlands Antilles (Revalidating and Amending).	1.
R-54	084j	TCI 14-Day Group Inclusive Tour Fares—Venezuela (Revalidating and Amending).	1.
R-55	084j	TCI 5-Day Group Inclusive Tour Fares—Venezuela (Revalidating and Amending).	1.
R-56	084LL	TCI Group Inclusive Tour Fares—Caribbean—Mexico (Revalidating and Amending).	1.
R-62	311k	Charges for Skin Diving Equipment (New)	1.

2. It is found that the following resolutions, incorporated in Agreement C.A.B. 24964 as indicated, are adverse to the public interest and in violation of the Act to the extent they affect air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
24964:			
R-18.....	051a	TCI First-Class Fares.....	1 (Mexico).
R-20.....	051c I	TCI First-Class Fares.....	1 (C/S America).
R-21.....	051c II	TCI First-Class Fares.....	1 (C/S America).
R-24.....	061a	TCI Economy-Class Fares.....	1 (Mexico).
R-26.....	061c I	TCI Economy-Class Fares.....	1 (C/S America).
R-27.....	061c II	TCI Economy-Class Fares.....	1 (C/S America).
R-29.....	070aa	TCI Excursion Fares—USA/Canada-Mexico (Revalidating and Amending).....	1.
R-30.....	070bb	TCI Excursion Fares—USA/Mexico-Bermuda/Caribbean/Venezuela and within Caribbean (Revalidating and Amending).....	1.
R-31.....	070cc I	TCI Excursion Fares—North and Central America/Caribbean—South America and within South America (Revalidating and Amending).....	1.
R-32.....	070cc II	TCI Excursion Fares—North and Central America/Caribbean—South America and within South America.....	1.
R-34.....	071f I	TCI 45-Day Excursion Fares (Revalidating and Amending).....	1 (C/S America).
R-35.....	071f II	TCI 45-Day Excursion Fares (Revalidating and Amending).....	1 (C/S America).
R-39.....	076a I	TCI Affinity, Own Use and Incentive Group Fares (Revalidating and Amending).....	1 (C/S America).
R-40.....	076a II	TCI Affinity, Own Use and Incentive Group Fares (Revalidating and Amending).....	1 (C/S America).
R-41.....	076aa	TCI Affinity and/or Own Use Group Fares USA—Mexico (Revalidating and Amending).....	1.
R-49.....	084c I	TCI Group Inclusive Tour Fares—USA/Canada/Mexico—South America (Revalidating and Amending).....	1.
R-50.....	084c II	TCI Group Inclusive Tour Fares—USA/Canada/Mexico—South America (Revalidating and Amending).....	1.
R-57.....	084mm	TCI 5-Day Inclusive Tour Fares—San Juan—Columbia (Revalidating and Amending).....	1.
R-58.....	084s I	TCI Group Inclusive Tour Fares USA—Central America/Panama (Revalidating and Amending).....	1.
R-59.....	084s II	TCI Group Inclusive Tour Fares USA—Central America/Panama (Revalidating and Amending).....	1.

3. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24964 as indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
24964:			
R-36.....	075L	TCI 30-Day Group Excursion Fares (within South America) (Revalidating and Amending).....	1.
R-37.....	075a	TCI Intra-Caribbean 10-Day Group Excursion Fares (Revalidating and Amending).....	1.
R-44.....	080o	TCI 21-Day Individual Inclusive Tour Fares from Bermuda/Bahamas to Mexico (Revalidating and Amending).....	1.
R-46.....	080r	TCI 28-Day Individual Inclusive Tour Fares Jamaica—Panama (Revalidating and Amending).....	1.
R-48.....	084bb	TCI Group Inclusive Tour Fares Pointe à Pitre/Fort de France-Lima (New).....	1.
R-52.....	084hh	TCI Group Inclusive Tour Fares—South America (New).....	1.
R-60.....	084w	TCI Group Inclusive Tour Fares—Bolivia/Chile/Columbia/Ecuador/Peru (Revalidating and Amending).....	1.
R-61.....	092o	TCI Intra-Caribbean Youth Fares (Revalidating and Amending).....	1.

Accordingly, it is ordered, That:

1. Those portions of Agreement C.A.B. 24964 set forth in finding paragraph 1 above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 24964 set forth in finding paragraph 2 above be and hereby are disapproved insofar as they affect air transportation as defined by the Act;

3. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreement C.A.B. 24964 set forth in paragraph 3 above; and

4. Tariffs implementing those portions of Agreement C.A.B. 24964 approved herein shall be marked to expire not later than the expiration dates of the respective resolutions.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.⁴

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 75-8428 Filed 4-1-75; 8:45 am]

⁴ Minetti and West, members, filed the dissent, filed as part of the original document.

[Order 75-3-100; Docket 26494; Agreement C.A.B. 24818, R-1 through R-13; Agreement C.A.B. 24821; R-1 through R-34; Agreement C.A.B. 24886; Agreement C.A.B. 24926; Agreement C.A.B. 24982; Agreement C.A.B. 24996, R-1 through R-4]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

North/Central Pacific and Intra-Pacific Air Fares; Order Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of March, 1975.

Order 74-12-91 (December 23, 1974) established procedural dates for the receipt of carrier justifications and comments from interested persons pertaining to an agreement among the members of the International Air Transport Association (IATA) encompassing the overall North/Central Pacific and Intra-Pacific fare structures to be applicable from April 1, 1975 through March 31, 1976.

The agreements contemplate an increase of eight percent in all fares for U.S.-originating travel over the North/Central Pacific and within the Pacific; elimination of presently available individual inclusive tour fares; and imposition of stopover limitations on various promotional fares not heretofore so re-

stricted. Free stopovers in connection with individual excursion fares, affinity group fares, and group inclusive tour fares would be limited to a total of four, with additional stopovers available at a charge of \$15 each.

Statements of justification have been submitted by Pan American World Airways, Inc. (Pan American) and Trans World Airlines, Inc. (TWA). Northwest Airlines, Inc. (Northwest), although not a member of IATA, has submitted a forecast of its anticipated financial results in North/Central Pacific scheduled passenger service in the same format as the IATA carriers.¹ No comments have been received from other persons.

Pan American states that it is currently earning a return on investment (ROI) of 3.71 percent in North/Central Pacific scheduled passenger operations (year ended September 1974), and that during the forecast year ending March 1976 it would earn an ROI of 9.65 percent under present fares. Under the proposed fares, it forecasts a return of 12.90 percent. Pan American attributes this financial improvement primarily to the beneficial effects of the Pan American/TWA route realignment approved by the Board in Order 75-1-133 (January 30, 1975), under which TWA will suspend all Pacific services. The carrier anticipates a level of operations reflecting a 50.3 percent increase in traffic and a 48.7 percent increase in capacity for a net gain in load factor of 0.5 points to 49.9 percent at status quo fares. The carrier expects a load factor of 47.9 percent under the proposed fares, reflecting its estimate of demand elasticity.

TWA cites a historical ROI of -42.0 percent in Pacific passenger service, and forecasts returns of -25.6 percent and -18.5 percent under present and proposed fares, respectively, for the year ending March 1976. Since TWA suspended its Pacific operations on March 2, 1975 pursuant to the approved route realignment agreements, its projections are no longer pertinent to the Board's disposition of the agreements.

Northwest states that it earned an ROI of 5.58 percent in scheduled Pacific passenger service during the year ended September 1974, and anticipates returns of 8.05 and 12.08 percent under present and proposed fares, respectively, during the forecast period.² Northwest's forecast, which reflects no traffic demand elasticity, is based on a load factor of 51.0 percent, a 1.0 point improvement over the historical period.

In requesting carrier justifications of the agreements, the Board also sought

¹ The carriers' submissions are detailed in the Appendices filed as part of the original document.

² We have adjusted Northwest's forecast to include \$553.00 in "other transport revenue" and \$759,000 "nontransport revenue," which were included under the scheduled passenger service in Northwest's statement of historical results but omitted, without explanation, from its forecast. After this adjustment Northwest's return under present fares would be 8.52 percent, and 12.55 percent under proposed fares.

comments on certain specific aspects of the fare structure, i.e., the proposed continuation of a number of promotional fares discounted more than 50 percent; the relatively high yields on Alaska-Far East fares as compared with yields from other U.S. gateways; and the rationale for cancellation of individual inclusive tour fares. On the first point, Pan American states that the group-100 affinity fare is the only fare which offers a discount from the normal economy fare in excess of 50 percent and seeks to support the level on the grounds that the restriction to groups of 100 persons warrants a discount of this magnitude, application is only to westbound originations, and that the fare was introduced and has been maintained in the IATA fare structure primarily at the insistence of one foreign-flag carrier. On the second point, Pan American contends that, although Alaska fares admittedly produce somewhat higher yields than fares from other U.S. gateways, a fare structure based on identical yields is simply not possible. If international Alaska fares were any lower, their combination with domestic west coast-Alaska fares would allegedly undercut west coast-Far East fares, which it contended to be another instance of conflict between U.S. domestic fares and international fares due to the higher costs of international flights. Finally, Pan American defends elimination of the individual inclusive tour fares on the basis that they carried an insignificant amount of traffic (1.56 percent of the total North/Central Pacific traffic during the year ended November 1974) and that, to the extent the fares were sold, substantial abuses occurred such as sale without the required ground arrangements.

Upon consideration of the proposed North/Central Pacific fare structure and the carrier justifications, the Board has determined to approve the agreements only insofar as they relate to first-class fares and promotional fares in economy-class service. The carriers' justifications indicate that they have incurred substantial cost increases which legitimately warrant some compensation in yield improvement. However, in the Board's opinion, this can be accomplished without an increase in normal economy fares at this time.³

³ In addition to disapproving North/Central Pacific normal economy fares, we will also disapprove increases in normal economy fares between Guam and other points in Traffic Conference 3. The special TC3 excursion fares for U.S. military personnel will also be disapproved consistent with Order 74-4-2 (April 1, 1974) which disapproved these fares on the basis that they represented unjust discrimination by offering opportunities for vacation travel to a small segment of the flying public. All fares between American Samoa and other TC3 points will be disapproved consistent with our action disapproving South Pacific fares in Order 75-3-98. The balance of the TC3 agreement will be approved or, as appropriate, the Board will disclaim jurisdiction.

At present fares, the carriers forecast a healthy although somewhat substandard composite return on investment of 9.13 percent. Under the proposed fares, Pan American forecasts a return of 12.90 percent, and Northwest a return of 12.55 percent, for a composite return on investment of 12.74 percent for aggregate U.S.-flag North/Central Pacific passenger services.

However, in the Board's opinion, Pan American's return may be understated. Pan American has projected a load factor which is somewhat below the carrier's historical experience in the North/Central Pacific market. In view of the route realignment cited above, there is no reason to believe that Pan American will be unable to improve its experienced load factor. Even assuming that Pan American does not exceed its reported historical load factor of 49.4 percent (year ended September 30, 1974), it would still achieve an ROI of 13.38 percent. Thus, it appears that if the proposed fare increases were approved in toto, both U.S. carriers would receive earnings in excess of the 12 percent ROI benchmark. In these circumstances the Board is unable to conclude that approval of the proposed increase in normal economy fares is essential to the carriers' financial stability, and accordingly it will be disapproved.

Disapproval of the normal economy fares coupled with approval of the various promotional fares would also have the benefit of reducing the spread between the two, an objective which the Board has long urged. The present promotional fare structure includes discounts ranging up to 59 percent from the normal economy fare and, contrary to Pan American's contentions, the affinity group-100 fare is not the only fare offering a discount greater than 50 percent. The affinity group-70 and the basic season GIT fares both offer discounts in excess of 50 percent in several markets. Data supplied by Pan American indicate that travel at discount fares now accounts for more than 54 percent of its North/Central Pacific traffic on scheduled service, which suggests that the normal economy-fare passenger is, or with normal traffic growth will be, subjected to the burden of an unnecessarily high fare level. With the present disparity in the levels of promotional and normal economy fares it can only be expected that traffic will move increasingly and disproportionately to the former. Retention of normal economy fares at status quo levels will substantially eliminate discounts in excess of 50 percent and move the structure in the direction of a more rational and cost-related relationship between the various fares. We would also note that the agreement has the additional merit of imposing stopover restrictions on promotional fares, a further step in moving toward a more cost-related structure which the Board has long urged.

Finally, the Board is unable to conclude that approval of the proposed Alaska-Far East fares is warranted in view of the disparity in yield between these fares and those to/from other U.S. gateways. Concededly a similar disparity exists under present fares. However, it would be exacerbated by this new agreement to a point which is no longer acceptable. For example, the present normal economy fare from Anchorage to Tokyo represents a yield of 13.12 cents per revenue passenger-mile as compared to a yield of only 9.48 cents from the Los Angeles-Tokyo fare, a difference of 3.64 cents.⁴ We accept Pan American's contention that adjustment of Alaska-Far East fares to reflect west coast yields would, when combined with domestic fares, produce undercuts of the west coast-Far East fares. Our analysis of fares to Tokyo (holding normal economy fares at status quo) indicates that undercuts would encompass normal first-class and economy fares, excursion fares, and in one case the affinity group-25 fare, and range from \$212 for the Los Angeles-Anchorage-Tokyo first-class fares to \$8 for the Seattle-Anchorage-Tokyo affinity group-25 fare. However this is not to say that fares could not be constructed which would avoid undercuts and at the same time result in a significant reduction in fares to/from Alaska. For example, based on the present yield at Seattle where the potential for undercuts appears to be the greatest, the Anchorage-Tokyo normal economy fare would be \$725. In combination with the \$230 domestic Seattle-Anchorage fare this admittedly would undercut the specified \$1004 Seattle-Tokyo fare by \$49. However, the addition of this \$49 to the constructed Anchorage-Tokyo fare would eliminate the undercut and would at the same time effect a \$164 reduction in the present Anchorage-Tokyo fare. In summary, the Board acknowledges the structural intricacies of establishing Alaska fares on an equivalent cents-per-mile basis with fares from other west coast points in the lower 48 states; but we are not prepared to permit fares any higher than necessary to cover the particular construction problems presented.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

⁴ The proposed fares for the same points would have produced yields of 14.15 cents and 9.89 cents per revenue passenger-mile, respectively, a difference of 4.27 cents.

Agreement CAB	IATA No.	Title	Application
24518:			
R-1	001b	North and Central Pacific Special Effectiveness Resolution (Tie-in)	3/L
R-2	002	Standard Revalidation Resolution	3/L
R-3	014a	Construction Rules for Passenger Fares (Amending)	3/L
R-4	015b	North and Central Pacific Proportional fares—North America (Revalidating and Amending)	3/L
R-5	022g	JT31 (North and Central Pacific) Special Rules for Sales of Passenger Air Transportation, (Revalidating and Amending) Except insofar as it would apply to fares from U.S. points.	3/L
R-7	060	Economy-Class Conditions of Service (Amending)	3/L
R-13	097	North and Central Pacific Special One-Way Fares (Revalidating and Amending)	3/L
Agreement CAB	IATA No.	Title	Application
24821:			
R-1	001b	TC3 Special Effectiveness Resolution (Tie-in)	3.
R-2	002	Standard Revalidation Resolution Except insofar as it would revalidate Resolution 0771 to/from U.S. points.	3.
R-3	003	Standard Revision Resolution	3.
R-4	003m	Fares Adjustment Resolution—Opening of Narita Airport (New)	3.
R-5	004	Restriction of Application for Travel solely between Australia and New Zealand (Revalidating and Amending)	3.
R-6	014a	Construction Rules for Passenger Fares (Amending)	3.
R-7	022	TC3 Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending) Except insofar as it would apply to fares from all U.S. territories and possessions in the Pacific other than American Samoa.	3.
R-8	022u	TC3 Special Rules for Sales of Passenger Air Transportation (New)	3.
R-10	060	Economy-Class Conditions of Service (Amending)	3.
R-16	075a	Common-Interest Group Fares (Revalidating and Amending)	3.
R-33	115d	Meeting Non-IATA Competition—Passenger (Revalidating and Amending)	3.
R-34	115f	Meeting Non-IATA Competition—Practices (Revalidating and Amending)	3.
Agreement CAB:		IATA Resolution	
24920		JT31 (Mail 282) 079d	
Agreement CAB	IATA No.	Title	Application
24982	100	Conditions of Service—Inflight Entertainment (Revalidating)	1; 2; 3; 1/2 2/3; 3/1; 1/2/3.
Agreement CAB 24996:		IATA Resolution	
R-1		300 (Mail 444) 053	
R-2		300 (Mail 444) 063	

2. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24818 as indicated, are adverse to the public interest or in violation of the Act to the extent they would establish fares other than between points in Alaska and points in Traffic Conference 3, and provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
24818:			
R-6	056	North and Central Pacific First-Class Fares	3/1
R-9	070a	North and Central Pacific 21-Day Excursion Fares (Revalidating and Amending)	3/1
R-10	070j	North and Central Pacific Own-Use and Affinity Group Fares (Revalidating and Amending)	3/1
R-11	079d	North and Central Pacific Contract Bulk Inclusive Tour Rules (Revalidating and Amending)	3/1
R-12	084b	North and Central Pacific Group Inclusive Tour Fares (Revalidating and Amending)	3/1

3. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24821 as indicated, are adverse to the public interest or in violation of the Act to the extent they would establish fares other than between American Samoa and points in Traffic Conference 3, and provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
24821:			
R-9	053	TC3 First-Class Fares	3
R-12	070a	TC3 Excursion Fares (Revalidating and Amending)	3
R-22	080e	TC3 Individual Inclusive Tour Fares (Revalidating and Amending)	3

4. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act to the extent they have direct application in air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
24818:			
R-8.....	066	North and Central Pacific Economy-Class Fares.....	3/1
24821:			
R-11.....	063	TC3 Economy-Class Fares.....	3

5. It is found that the following resolutions, incorporated in Agreement C.A.B. 24818 as indicated, are adverse to the public interest and in violation of the Act to the extent they would establish fares between points in Alaska and points in Traffic Conference 3:

Agreement CAB	IATA No.	Title	Application
24818:			
R-6.....	056	North and Central Pacific First-Class Fares.....	3/1
R-9.....	070a	North and Central Pacific 21-Day Excursion Fares (Revalidating and Amending).....	3/1
R-10.....	070j	North and Central Pacific Own-Use and Affinity Group Fares (Revalidating and Amending).....	3/1
R-11.....	079d	North and Central Pacific Contract Bulk Inclusive Tour Rules (Revalidating and Amending).....	3/1
R-12.....	084b	North and Central Pacific Group Inclusive Tour Fares (Revalidating and Amending).....	3/1

6. It is found that the following resolutions, incorporated in Agreement C.A.B. 24821 as indicated, are adverse to the public interest and in violation of the Act to the extent they would establish fares between American Samoa and points in Traffic Conference 3:

Agreement CAB	IATA No.	Title	Application
24821:			
R-9.....	053	TC3 First-Class Fares.....	3
R-12.....	070a	TC3 Excursion Fares (Revalidating and Amending).....	3
R-17.....	076e	TC3 Affinity Group Travel (Revalidating and Amending).....	3
R-22.....	080e	TC3 Individual Inclusive Tour Fares (Revalidating and Amending).....	3
R-28.....	084kk	TC3 Group Inclusive Tour Fares—Asia/Southwest Pacific (Revalidating and Amending).....	3
R-29.....	084L	TC3 32- and 35-Day Group Inclusive Tour Fares (Revalidating and Amending).....	3
R-30.....	084s	TC3 Group Inclusive Tour Fares—Southwest Pacific (Revalidating and Amending).....	3

7. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24818:			
R-5.....	022g	JT31 (North and Central Pacific) Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending) Insofar as it would apply to fares from United States points.....	3/1
24821:			
R-7.....	022e	TC3 Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending) Insofar as it would apply to fares from all U.S. territories and possessions in the Pacific other than American Samoa.....	3
R-32.....	090h	TC3 30-Day Excursion Fares for U.S. Military Personnel (Revalidating and Amending).....	3

8. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
24821:			
R-13.....	070h	TC3 Excursion Fares—Fiji to India (Revalidating and Amending).....	3
R-14.....	070n	TC3 45-Day Excursion Fares—Australia, New Zealand, and New Caledonia to Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka (Revalidating and Amending).....	3
R-15.....	072e	TC3 New Zealand/Fiji Early-Purchase Individual Contract (Revalidating and Amending).....	3
R-18.....	076r	TC3 Incentive Group Fares (Revalidating and Amending).....	3
R-19.....	077b	TC3 Group Fares for Ships' Crews (Revalidating and Amending).....	3
R-20.....	077c	TC3 Group Fares for Ships' Crews—Bangladesh, India, Pakistan, and Sri Lanka (Revalidating and Amending).....	3
R-21.....	079d	TC3 Contract Bulk Inclusive Tour Rules (Revalidating and Amending).....	3
R-23.....	080f	TC3 35-Day Individual and Group Inclusive Tour Fares, Australia/New Zealand to Bangladesh/Burma/India/Nepal/Pakistan/Sri Lanka (Revalidating and Amending).....	3
R-24.....	080i	TC3 28-Day Inclusive Tour Fares, Japan to Afghanistan/Bangladesh/India/Nepal/Pakistan/Sri Lanka (Revalidating and Amending).....	3
R-25.....	081j	TC3 17-Day Group Inclusive Tour Fares, Bangkok to Calcutta (Revalidating and Amending).....	3
R-26.....	081j	Special Group Inclusive Tour Fares—Between the People's Republic of China and Japan (New).....	3
R-27.....	084k	TC3 Group Inclusive Tour Fares (Revalidating and Amending).....	3
R-31.....	092	Student Fares (Revalidating and Amending).....	3

Agreement C.A.B.	IATA resolution
24886	300 (Mail 441) 084k.
24996:	
R-3	300 (Mail 444) 077b.
R-4	300 (Mail 444) 081j.

Accordingly, It is Ordered, That:

1. Those portions of Agreements C.A.B. 24818, C.A.B. 24821, C.A.B. 24926, C.A.B. 24982 and C.A.B. 24996 set forth in finding paragraphs 1, 2, and 3 above, be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreements C.A.B. 24818 and C.A.B. 24821 set forth in finding paragraph 4 above be and hereby are disapproved to the extent they have direct application in air transportation as defined by the Act;

3. Those portions of Agreements C.A.B. 24818 and C.A.B. 24821 set forth in finding paragraph 4 above be and hereby are approved to the extent they do not have direct application in air transportation as defined by the Act;

4. Those portions of Agreements C.A.B. 24818 and C.A.B. 24821 set forth in finding paragraphs 5, 6, and 7 above be and hereby are disapproved;

5. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B., 24821, C.A.B. 24886, and C.A.B. 24996 set forth in finding paragraph 8 above;

6. Tariffs implementing the agreements approved herein shall be marked to expire not later than the respective expiry dates of the approved agreements; and

7. The carriers are hereby authorized to file tariffs implementing the approved agreements on not less than one day's notice for effect not earlier than April 1, 1975. The authority in this paragraph expires with May 1, 1975.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board,

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-8431 Filed 4-1-75;8:45 am]

[Docket 27671; Order 75-3-102]

NATIONAL AIRLINES, INC.

"No Frill" Fares; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of March, 1975.

By tariff revisions¹ marked to become effective March 29, 1975, National Airlines, Inc. (National), proposes to establish new fares, called "no frill" fares, in 32 markets where it operates wide-body aircraft.² The fares would apply for

¹ Revisions to Airline Tariff Publishers Company, Inc., Agent, Tariff C.A.B. Nos. 142, 202, and 220.

² New York-Miami/Fort Lauderdale and markets on its southern tier route. Five additional Ft. Lauderdale-southern tier markets have been common-fared with Miami although National does not operate single-plane wide-bodied schedules in these markets.

transportation in the rear compartments of those aircraft, are discounted 35 percent from normal coach fares,³ and would apply from April 14, 1975 through December 16, 1975 except for a summer blackout (July 1 through September 2) and a blackout around Thanksgiving (November 25 through December 1).

The "no frill" tariff would only be valid for departures scheduled on Monday through Thursday of each week. No meals or snacks would be provided, although coffee, tea, milk and soft drinks would be available at a charge of \$0.25. No alcoholic beverages would be sold. The tariff carries a seven-day advance-purchase requirement with reservations accepted only at the time of ticket purchase. A cancellation charge of \$10 or 10 percent of the ticket price, whichever is higher, would be assessed for "no shows," cancellation, or reservation change. No length-of-stay requirements apply since the fares are published on a one-way basis.

American Airlines, Inc. (American), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), and Eastern Air Lines, Inc. (Eastern), have filed to match National's "no frill" fares in markets where they are competitive, although with some modifications. These filings will be disposed of by subsequent order.

In support of its proposal and in answer to the complaints, National points to the continuing decline in traffic, which allegedly reached 1.5 percent in the fourth quarter of 1974 and a further 1.9 percent in January 1975, and argues that "the development of a sound and profitable fare aimed at bringing back scheduled air transportation within the reach of that large portion of the price-conscious American public which has been progressively excluded from the market place" is needed to deal with this situation. At the same time, National is seeking to improve the utilization of its wide-body aircraft, which are experiencing low load factors and are thus not realizing their potential operating efficiency. National contends that the industry's wide-body load factors (domestic operations) dropped from 57.4 percent in the third quarter of 1974 to 45.2 percent in the last quarter.

National defends its use of Phase 5 methodology in its justification, and submits evidence that it is reducing its system seat-miles while its New York-Florida competitors are increasing capacity. National submits that, despite this voluntary capacity cut-back, it is still faced with excessive capacity, and that its "no frill" fare program is thereby entirely consistent with the Board's discount fare policy enunciated in the *DPFI*. National

³ National has designated the rear-most compartment of the DC-10-10 and DC-10-30, comprising 121 and 129 seats, respectively, as available for "no frill" passengers. The discount is applied to the pending "Phase 9" full coach fare (to be effective April 29, 1975). Accompanied children (ages 2-12) would be carried at 66 2/3 percent of the adult "no frill" fare.

attempts to justify its profit-impact test based on a survey taken of sales already made for its "no frill" service for the three-day period March 11 through 13, and argues that the mid-week Florida excursion fare does not represent a duplication of its traffic-generation estimate.

American and Eastern have filed complaints against the fares, requesting suspension and investigation. Both complainants allege that National has failed to demonstrate any cost savings which would justify a 35 percent discount, that the cost saving for wide-body versus conventional aircraft is far less than that claimed by National, and that the proposal is discriminatory because it is limited to wide-body aircraft. American further alleges, inter alia, that National would gain a tremendous competitive advantage, that the proposal is intended more to divert traffic from its competitors than to generate new traffic; and that the fares would, in effect, be as much a basic class of service as night coach or economy fares.

Eastern alleges, inter alia, that National's proposed program is not necessary at this time since other promotional fares have recently been introduced; that it carries the threat of spreading throughout the industry and to other aircraft types. Eastern alleges that, if considered a lower priced economy fare, it should be suspended because it does not reflect any cost savings over and above the \$4 differential determination in Phase 9. If the fares are considered as discounted promotional fares, Eastern contends that National has failed to show that they meet the profit-impact test. Finally, Eastern contends that National has ignored the impact if its 7-21 day midweek excursion fare and has, in effect, double counted generation of excursion-fare passengers in obtaining its generation estimate.

In addition, United Air Lines, Inc., (United) has answered in support of the complaints. The Council on Wage and Price Stability and the Southern Florida Hotel and Motel Association (Association) have answered in support of National's proposal.⁴ The Civil Aeronautics Board's Office of the Consumer Advocate has submitted a letter also supporting the "no frill" fare proposal.

Upon consideration, the Board has decided to permit National's "no frill" fares to become effective. It is generally recognized that air traffic is soft, and that appropriately devised fare incentives are needed to stimulate traffic. The traffic decline experienced in recent months has led the domestic industry to establish a number of new discount fares. Whether or not the "no frill" fares will stimulate additional traffic without causing undue

⁴ Late filed answers in support of the fares were also filed by the Department of Transportation and the Department of Justice. Those answers were accompanied by motions to submit late filed documents which will be granted.

diversion is, of course, unknown. However, a survey taken by National of "no frill" sales, albeit limited to a three-day period, suggests that the fares have appealed primarily to pleasure/personal travelers, many of whom have discretionary incomes at lower ranges than those of persons typically using scheduled air transportation, and many of whom have apparently diverted from surface travel. In light of this initial experience and the widespread publicity the "no frill" fares have received, it may well be that the fares will have a generative impact in the magnitude estimated by National and prove to be profitable. For this reason, we believe the proposal merits a test in the marketplace.

However, the complaints raise a number of substantial questions as to the economics and lawfulness of the proposed fares which cannot be adequately answered at this time. These questions are clearly serious enough to require that the proposal be investigated.² We mention the question of generative impact above. With respect to the alleged greater efficiency of wide-body aircraft, which is National's primary basis for the discount, our evaluation of the latest operational and cost data indicates that the cost advantage in these particular markets, based on National's own experience, is far short of the 35.7 percent claimed by National. National's estimated advantage results almost completely from the fact that its wide-body jets operated at an average flight stage of 911 miles during fiscal 1974, while its narrow-body aircraft operated at a 401-mile average hop. In any event, however, the Board does not regard National's proposal as a long-term cost-based class of service but rather as a fare to be tested against the short-term Phase 5 criteria.

To insure that the overall fare level is not burdened by traffic moving on these fares, the Board has decided to include the traffic in its Phase 5 (DPFI) discount-fare adjustment in future evaluation of the industry's revenue need. Accordingly, we will require that the carriers specifically isolate the traffic, adult and children, in their discount-fare traffic submissions pursuant to Phase 5.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404 and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A³ attached hereto, and rules, regulations and practices affecting such fares and provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

² The Board intends to expedite the investigation of the "no frill" fares, and will promptly issue an order establishing guidelines for processing the case.

³ Appendix A filed as part of the original document.

2. The motion by the United States Department of Justice for leave to file a late document is hereby granted;

3. The motion by the United States Department of Transportation for leave to file a late document is hereby granted;

4. Except to the extent granted herein, Dockets 27607 and 27610 are hereby dismissed;

5. The investigation ordered herein be assigned before an Administrative Law Judge at a time and place hereafter to be designated; and

6. A copy of this order be served upon American Airlines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., United Air Lines, Inc., the United States Department of Justice, the United States Department of Transportation, the Council on Wage and Price Stability and the Southern Florida Hotel and Motel Association.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-8534 Filed 4-1-75; 8:45 am]

[Docket 27557; Order 75-3-66]

**SEABOARD WORLD AIRLINES, INC.
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT**

Transatlantic Container Rates; Order of Investigation; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of March, 1975.

Ordering paragraph 1 of Board Order 75-3-66, published at 40 FR (13332) 3-26-75, is amended as follows:

Delete "4th Revised Page 82"

Add "5th Revised Page 82, including subsequent revisions and reissues thereof."

By the Civil Aeronautics Board:

Dated: March 24, 1975.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-8533 Filed 4-1-75; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 746]

COMMON CARRIER SERVICES INFORMATION

Domestic Public Radio Services Applications Accepted for Filing

MARCH 24, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an ap-

¹ TIMM, Member, filed the Concurrence and Dissent as part of the original document.

² All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

³ The above alternative cut-off rules apply to those applications listed in the appendix

application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed confliction applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21285-CD-P-75, Telanswer Radiophone Service (KUC853), C.P. to add Loc. No. 3 to operate on 158.70 MHz to be located at 507 South Arthur Drive, Pocatello, Idaho.

21286-CD-P-75, The Pacific Telephone and Telegraph Company (KUD229 Air-Ground), C.P. to change antenna height operating on 454.675 MHz located 5.6 miles North of Julian, California.

21287-CD-P-75, General Communications Company (KUC849), C.P. to replace transmitter operating on 35.22 MHz located at Westover Reservoir Park, Morgantown, West Virginia.

21288-CD-P-75, Nolen H. Cope (New), C.P. for a new station to operate on 454.675 MHz to be located at Intersection Hwy. 385 and Hwy. 137, Brownfield, Texas.

21289-CD-P-75, DPRS, Inc. t/a Zipcall (KCB890), C.P. to change antenna system and relocate facilities operating on 43.58 MHz located at Nobscott Hill, 5 miles North of Farmington, Massachusetts.

21290-CD-P-75, Meriden Telephone Company (New), C.P. for a new 1-way station to operate on 158.10 MHz to be located 1.7 miles NE of Meriden.

as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

21291-CD-P-75, Ram Broadcasting of Nevada, Inc. (KUC995 Air-Ground), C.P. to change facilities operating on 454.675 MHz located at 320 East Carson Avenue, Las Vegas, Nevada.

21292-CD-P-75, Hawaiian Telephone Company (KUA221), C.P. to relocate facilities operating on 152.57 MHz at Loc. No. 1, located 53 South Church Street, Wailuku, Hawaii.

21293-CD-P-75, Mobilfone of Kansas (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located at U.S. Highway 183, 2.9 miles North of Hays, Kansas.

21294-CD-P-75, Intra State Telephone Company (KQZ727), C.P. to change antenna system operating on 152.84 MHz located at 100 North Cherry Street, Galesburg, Illinois.

Major Amendment

21186-C2-P-(3)-74, Stockton Mobilphone, Inc., El Dorado, California (KRM984), amend to change the control frequency at location No. 3 (2171 Ralph Avenue, Stockton, California) and location No. 4 (3502 Kroy Way, Sacramento, California) to 72.50 MHz. All other particulars to remain the same as reported in PN No. 696, dated April 15, 1974.

20618-CD-75, Island Telepage Systems, Oak Harbor, Washington, (New) amend to change base frequency 152.24 MHz to read 454.300 MHz, and to add second transmitting antenna site at Lummi Island, Washington to operate on same frequency; change the antenna system at the proposed Blyn Mountain, Washington site. All other particulars are to remain the same as reported on PN No. 726, dated November 4, 1974.

6383-C2-P-68, The Bell Telephone Company of Pennsylvania, Philadelphia, Pennsylvania, (New) amend to change antenna system of location No. 1: 12 South Street; Loc. No. 2 4900 N. Broad Street; Loc. No. 3 2210 Lott Street, Philadelphia, Pennsylvania. Also change power at Loc. No. 1 and antenna location No. 2 to 4900 North Broad Street, Philadelphia, Pennsylvania. All other particulars are to remain the same as reported on PN No. 402-1, dated August 26, 1968.

Corrections

21261-CD-P-(3)-75, Electronic Engineering Company (New), Correct to read: C.P. for a new 1-way station to operate on 35.58 MHz at Loc. No. 1, 1100 Keosauqua Way, Des Moines, Iowa, Loc. No. 2 at 4133 E. 23rd Street, Des Moines, Iowa, and Loc. No. 3 at 1200-35th Street, Des Moines, Iowa.

21270, 21273, 21275, 21277 & 21281-CD-TC-75, Radio Relay Corps Consent to transfer to Radio Relay Corp- Delaware. Correct to read as follows—Stations: KEC-745, Brooklyn N.Y.; KAA893 St. Louis, Missouri, KQC884 Detroit Michigan, KSC845 Chicago, Illinois KQC877 Cincinnati, Ohio.

POINT TO POINT MICROWAVE RADIO SERVICE

3001-CF-P-75, Michigan Bell Telephone Company (KQK33), 4.2 Miles SE of Saranac, Michigan. Lat. 42°53'08" N., Long. 85°09'12" W. C.P. to add frequency 3870V MHz toward Pottersville, Michigan on azimuth 126°/01'.

3002-CF-P-75, Same (WSL61), 4.4 Miles NNE of Morrice, Michigan. Lat. 42°54'20" N., Long. 84°09'38" W. C.P. to change antenna designation from BC to BD and add frequencies 4070H and 4150H MHz toward Lansing, Michigan on azimuth 239°/40'.

3003-CF-P-75, Same (KQF43), 1.5 Miles East of Pine Run, Michigan. Lat. 43°10'20" N., Long. 83°40'48" W. C.P. to add frequency 4070H MHz toward Saginaw, Michigan on azimuth 323°/48'.

3004-CF-P-75, Same (KQM33), on McGuinnis Road, 3.4 Miles SW of Ortonville, Michigan. Lat. 42°49'08" N., Long. 83°30'09" W. C.P. to change antenna designation from BC to BD and add frequencies 4090H MHz toward Pontiac, Michigan on azimuth 138°/56'; add 4090V 4070H and 4150H MHz toward Flint, Michigan on azimuth 324°/34'.

3005-CF-P-75, Same (KQG59), 502 Beach Street, Flint, Michigan. Lat. 43°00'53" N., Long. 83°41'33" W. C.P. to add frequencies 4050V MHz toward Ortonville, Michigan on azimuth 144°/27'; add 4030H and 4110H MHz toward Morrice, Michigan on azimuth 252°/31'; add 4030V MHz toward Pine Run, Michigan on azimuth 03°/19'.

3006-CF-P-75, Same (KQM36), 221 North Washington Street, Lansing, Michigan. Lat. 42°44'08" N., Long. 84°33'09" W. C.P. to add frequencies 3870H and 4110H MHz toward Pottersville, Michigan on azimuth 231°/54'.

3007-CF-P-75, Same (KVV86), 54 N. Mill Street, Pontiac, Michigan. Lat. 42°38'20" N., Long. 83°17'25" W. C.P. to add frequencies 4050H MHz toward Detroit, Michigan on azimuth 150°/11'; add 4050H, 4030V, and 4110V MHz toward Ortonville, Michigan on azimuth 319°/04'.

3008-CF-P-75, Same (KQI80), 1365 Cass Avenue, Detroit, Michigan. Lat. 42°19'57" N., Long. 83°03'14" W. C.P. to add frequencies 4090H, 4030V, and 4110V MHz toward Pontiac, Michigan on azimuth 330°/21'.

3009-CF-P-75, Same (KQA43), 1.3 Miles East and 1.3 Miles North of Pottersville, Michigan. Lat. 42°38'44" N., Long. 84°42'28" W. C.P. to add frequencies 3910H MHz toward Lansing, Michigan on azimuth 51°/47'; add 3910V and 4150V MHz toward Saranac, Michigan on azimuth 306°/19'.

3017-CF-P-75, The Offshore Telephone Company (New), South Marsh Island Area, Block 281, Platform C, Gulf of Mexico. Lat. 29°05'09" N., Long. 91°52'24" W. C.P. for a new station on frequency 2112.0H MHz toward a new point of communication at South Marsh Island Area 269 D, Gulf of Mexico on azimuth 69°/52'.

3018-CF-P-75, The Offshore Telephone Company (New), South Marsh Island Area, Block 6, Platform A, Gulf of Mexico. Lat. 28°59'45" N., Long. 92°00'57" W. C.P. for a new station on frequency 2178.0V MHz toward a new point of communication at South Marsh Island Area 268 A, Gulf of Mexico on azimuth 43°/21'.

3019-CF-P-75, Same (New), South Marsh Island Area, Block 268, Platform A, Gulf of Mexico. Lat. 29°06'57" N., Long. 91°52'17" W. C.P. for a new station on frequencies 2128.0V MHz toward a new point of communication at South Marsh Island Area, 6 A, Gulf of Mexico on azimuth 223°/25'; 2120.0V MHz toward a new point of communication at South Marsh Island Area 269 D, Gulf of Mexico on azimuth 320°/05'.

3020-CF-P-75, Same (New), South Marsh Island Area, Block 269, Platform D, Gulf of Mexico. Lat. 29°07'52" N., Long. 91°53'32" W. C.P. for a new station on frequencies 2170.0V MHz toward a new point of communication at South Marsh Island Area 268 A, Gulf of Mexico on azimuth 140°/08'; 2162.0H MHz toward a new point of communication at South Marsh Island Area 281 C, Gulf of Mexico on azimuth 159°/52'.

3021-CF-P-75, RCA Alaska Communications, Inc. (New), Surfcoote Camp, 2.38 Miles NNE of Prudhoe Bay Airport, Alaska. Lat. 70°16'40" N., Long. 148°16'20" W. C.P. for a new station on frequency 2168.2V MHz toward Put River, Alaska on azimuth 261°/00'.

3022-CF-P-75, Same (WOF48), Put River, Adjacent to Alyeska Pipeline Pump Station No. 1, 394 Miles North of Fairbanks, Alaska. Lat. 70°15'34" N., Long. 148°36'32" W. C.P. to add antenna and frequency 2118.2V MHz toward a new point of communication at Surfcoote Camp, Alaska on azimuth 80°/41'.

3028-CF-ML-75, The Pacific Telephone and Telegraph Company (KMX57), 308 West Cypress Street, Santa Maria, California. Lat. 34°57'02" N., Long. 120°26'19" W. Mod. of License to change polarization from Horizontal to Vertical on frequencies 3770 3850 3930 4010 4090 4070 and 4170 MHz toward Tassajara, California on azimuth 333°/32'.

3029-CF-ML-75, Same (KMZ71), Tassajara, 5.5 Miles West of Santa Margarita, California. Lat. 35°23'37" N., Long. 120°42'29" W. Mod. of License to change polarization from Horizontal to Vertical on frequencies 3730 3810 3890 3970 4030 4050 and 4130 MHz toward Santa Maria, California on azimuth 153°/23'.

CORRECTION

2990-CF-P-75, General Telephone Company of Illinois (KSN45), Correct frequency 6397.7H to read 6367.7H MHz (All other particulars remain the same as reported on Public Notice dated March 17, 1975.)

[FR Doc.75-8470 Filed 4-1-75;8:45 am]

[FCC 75-297]

GEORGE T. MOBILE AND RADIO GAITHERSBURG, INC.

Declaratory Ruling

In re letters of George T. Mobile and Radio Gaithersburg, Inc., for declaratory rulings for deleted facilities of station WHMC, Gaithersburg, Maryland.

1. We have before us for consideration a request for a declaratory ruling filed on December 10, 1974, on behalf of George T. Mobile [Mobile] regarding the status of future applications for the deleted facilities of station WHMC, Gaithersburg, Maryland (1150 kHz), and a similar request filed on behalf of Radio Gaithersburg, Inc. [RGI]. Both Mobile and RGI are potentially mutually exclusive applicants.

2. On December 3, 1973, WHMC was ordered to cease operations following denial of that station's application for renewal of license. Nick J. Chaconas v. F.C.C., Case No. 72-1684 (D.C. Cir., October 11, 1973).

3. It is the practice of the Commission, where a station has been deleted, to accept applications to continue that service in order to avoid an extended period of interruption in service to the community of license. Such applications are subject to those rules, regulations and technical criteria applicable to the deleted facility, rather than those normally applied to a request for an entirely new assignment. However, since our standard broadcast allocation is not based on a predetermined table of assignments, as in the case of FM broadcast stations, once a standard broadcast station has been deleted for a significant length of time, an application for that particular frequency is considered to be an application for a new station, unrelated to the prior facility, and is subject

to the Commission's rules and standards as of the date the application is tendered. Opal Rompel, 24 F.C.C. 2d 458 (1970); LaFourche Valley Enterprises, Inc., 31 RR 2d 1409 (1974). In Opal Rompel, the applicant tendered an application for the deleted facilities of station KOLR, Sterling, Colorado, one year and ten days after KOLR had ceased operation and almost seven months after the station had been deleted. In LaFourche, the applicant tendered its application fourteen and one-half months after the effective date of the revocation. In both Opal Rompel and LaFourche, due to the "significant length of time" between cessation of operation of the station and the tendering of the application, as well as the absence of sufficient grounds to warrant departure from the Commission's practice, as indicated above, we declined to consider the applications as being for continuing service.

4. In the instant case, the applications for the deleted facilities will be filed with the Commission more than a year after the effective date of the WHMC deletion. Nevertheless, we believe that although this would generally constitute the "significant length of time" required to cause an application for the deleted facilities to be considered as an application for an entirely new assignment, there are sufficient grounds here to permit acceptance of the applications.

5. WHMC's five-tower directional antenna and studio site is on land which was owned by the former licensee, Nick J. Chaconas. In addition, a portion of the facilities had been constructed on land owned by Montgomery County and under the control of the Maryland National Capital Park and Planning Commission (Park and Planning Commission). In its request, RGI indicates that in view of engineering considerations as well as the local land use and zoning restrictions, this site is the only reasonable site for the location of a station on 1150 kHz. Following deletion of the WHMC facilities, negotiations commenced which resulted in acquisition of the site by Montgomery County. During the negotiations Mobile and RGI were informed that the Park and Planning Commission would make no representations concerning the terms of a possible lease until the contract with Mr. Chaconas was final. In May 1974, the County entered into a contract with Chaconas for the sale of his land. However, Mobile and RGI indicate that they were not notified of this transaction until September 1974, and furthermore, were not informed of the terms upon which the County would lease the facilities until December 5, 1974. Mobile's request for a declaratory ruling in this matter was filed immediately thereafter.

6. In view of these circumstances, we believe that Mobile and RGI have exercised due diligence and have shown good cause why applications to replace

WHMC could not have been filed earlier. Since the delay was occasioned by factors beyond their control, we will afford them additional time to file proposals for the facilities. Furthermore, consistent with our established practice in this area, the forthcoming applications will be granted pro forma waivers of our acceptability criteria provided they cause no more interference on the frequency than the former facilities. Following acceptance of the future Mobile and RGI proposals, they will be placed on a "cut-off" list and a deadline established for the filing of other competing applications.

7. Accordingly, it is ordered, that the aforementioned requests for declaratory ruling, filed by George T. Mobile and Radio Gaithersburg, Inc., are granted to the extent that the above parties may tender applications to replace the facilities of former station WHMC no later than sixty (60) days following release of this order.

Adopted: March 11, 1975.

Released: March 20, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] VINCENT J. MULLINS,
Secretary,
[FR Doc. 75-8468 Filed 4-1-75; 8:45 am]

[Docket Nos. 20388, 20389, 20390; File Nos.
BPH-8802, BPH-8900, BPH-8907]

MARANATHA, INC. ET AL.

Construction Permits

In re applications of MARANATHA, INC., Princess Anne, Maryland, requests: 102.5 MHz; Channel #273; 50 kW (H&V); 500 feet; Leisure Time Communications, Inc., Pocomoke City, Maryland, requests: 102.5 MHz; Channel #273; 50 kW (H&V); 500 feet; Peter and John Radio Fellowship, Inc., Pocomoke City, Maryland, requests: 102.5 MHz, Channel #273; 50 kW (H&V); 500 feet, for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has under consideration the three above-captioned applications which are mutually exclusive in that they seek the same channel allocated to Pocomoke City, Maryland.

2. Leisure Time Communications, Inc. [Leisure Time], proposes to alter the vertical radiator of its existing AM station, WDMV, by increasing its antenna height from 324 feet above ground to 525 feet above ground. Since the increase in tower height has not received FAA clearance, it will be necessary to determine whether there is a reasonable possibility that the tower height and location proposed by Leisure Time would constitute a menace to air navigation. Accordingly, an appropriate issue will be included as to this application.

3. The FM antenna proposed by Leisure Time is to be side-mounted on the

WDMV tower and will result in an increase in the antenna height. No application is pending for a change in the WDMV tower. Accordingly, a grant of the Leisure Time application should contain a condition requiring the submission and approval of an appropriate application by WDMV for changes in its antenna structure.

4. Peter and John Radio Fellowship, Inc. [Radio Fellowship], proposes to locate its studio-transmitter site 6.0 miles northwest of Pocomoke City, Maryland. Section 73.210 of the Commission's rules provides that the main studio of a commercial FM station must be located in the proposed city of license, or good cause must be shown for locating the main studio outside that community. Radio Fellowship states that its proposed site is located at the intersection of a major U.S. Highway and Cottage Grove Road. This location is approximately 10 minutes in driving time from Pocomoke City. The proposed site is not located within any other city or significant community, nor is it closer to any other city or significant community than to Pocomoke City. Radio Fellowship also states that the selected site is within reasonably short highway distances from Princess Anne and Crisfield, neither of which has a radio station. In addition to showing the convenience and accessibility of the site to the residents of Pocomoke City, as well as other cities within the service area, Radio Fellowship states that the substantial amount of land available at its proposed site will allow expansion of the station's physical plant whenever warranted. Good cause to locate the studio-transmitter complex at the proposed site has been shown in this instance.

5. Although two of the applicants propose to serve primarily Pocomoke City, Maryland, while Maranatha, Inc. [Maranatha], proposes to serve primarily Princess Anne, Maryland, the respective applicants would serve substantial areas in common. Thus, a contingent comparative issue has been specified. In the event it is determined, pursuant to section 307(b) of the Communications Act of 1934, as amended, that one of the proposals for Pocomoke City is to be preferred, it will be necessary to conduct a full comparison between the two applicants for that community to determine which is better qualified. If the proposal for Princess Anne is found preferable from a section 307(b) standpoint, it will be granted. If, however, a choice between the Princess Anne and Pocomoke City proposals cannot be made under 307(b) criteria, it will be necessary to determine, on a comparative basis, which of the three applicants is best qualified.

6. Maranatha and Radio Fellowship propose independent programming, while Leisure Time proposes to duplicate the programming of its commonly owned AM station, WDMV, on the average of 12 hours a day. Therefore, in the event that the proposals for Pocomoke City are preferred pursuant to section 307(b) of the Communications Act of 1934, as

¹ The 21-acre site may now be leased for 10 years at \$15,000 per annum. A second ten-year lease can be negotiated for a percentage of the station's yearly gross revenues but in no event less than \$15,000.

² Commissioner Hooks concurring in the result.

amended, or in the event that the Administrative Law Judge decides that a choice between the three applications in this proceeding should not be based solely on considerations relating to section 307 (b), evidence regarding program duplication will be admissible under the comparative issue. When duplicated programming is proposed, the showing permitted under the comparative issue is usually limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. Jones T. Sudbury, 8 FCC 2d 360, 10 RR 2d 114 (1967). However, since Radio Fellowship proposes predominantly religious programming, while Leisure Time proposes general market programming, the relative need for these different types of programming will also be considered if the proposals for Pocomoke City are preferred pursuant to section 307(b) or if the Administrative Law Judge determines that a choice between the three applications should not be based solely on considerations relating to section 307(b). Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965).

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Leisure Time Communications, Inc., would constitute a menace to air navigation.

2. To determine the areas and populations which would receive FM service of 1 mV/m or greater intensity from the respective proposals together with the availability of other primary (1 mV/m or better for FM) aural services in such areas.

3. To determine, in light of section 307 (b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event that it is concluded that a choice between applications should not be based solely on considerations relating to section 307(b), which of the proposals would best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That, pursuant to § 73.210(a) (3) of the rules, permission to locate the main studio as proposed in the Peter and John Radio Fellowship, Inc., application is granted.

10. It is further ordered, That, the Federal Aviation Administration is made a party to this proceeding.

11. It is further ordered, That, in the event of a grant of the application of Leisure Time Communications, Inc., the construction permit shall contain the following condition:

Construction of the antenna structure shall not commence until an application for appropriate changes in the facilities of WDMV has been approved by the Commission.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: March 19, 1975.

Released: March 25, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 75-8467 Filed 4-1-75; 8:45 am]

[FCC 75-305; CSR-480, 477]

TELEPROMPTER CABLE SYSTEMS, INC. AND CENTRAL CALIFORNIA COMMUNICATIONS CORP.

Petitions for Declaratory Ruling

In re Teleprompter Cable Systems, Inc., Santa Cruz, Scotts Valley, Santa Cruz County, California, and Central California Communications Corporation, Capitola, Watsonville, East Lake Village, Freedom, Salinas, Serra Village, San Benancio, California, petitions for declaratory ruling.

1. On October 26, 1973, TelePrompter Cable Systems, Inc., operator of cable television systems serving Santa Cruz, Scotts Valley and Santa Cruz County, California, filed a "Request for Declaratory Ruling Concerning § 76.99 of the Commission's Rules" (CSR-480). TelePrompter's systems are within the San Francisco-Oakland-San Jose market (#7) and the Salinas-Monterey smaller TV market. On November 7, 1973, Central California Communications Corporation, operator of cable television systems at Capitola, Watsonville, East Lake Village, Freedom (each within the San Francisco-

Oakland-San Jose and the Salinas-Monterey markets), Salinas, Serra Village and San Benancio (each within the Salinas-Monterey market), California, filed a "Request for Declaratory Ruling" (CSR-477). Both requests involve similar issues and therefore will be consolidated.

2. TelePrompter carries Television Broadcast Stations KMST, Channel 46 (CBS), Monterey, and KTVU, Channel 2 (Ind.), Oakland, on its Santa Cruz systems. Both signals are significantly viewed in Santa Cruz County where the cable systems are located, and therefore must be carried pursuant to § 76.61 on each system. KMST places a Principal Community contour and KTVU a predicted Grade B contour over the cable communities. On March 31, 1972, TelePrompter was providing exclusivity protection to KMST's network and non-network programming pursuant to former § 74.1103 of the Commission's rules.¹ Currently, KMST and KTVU simultaneously broadcast the same episodes of at least two syndicated programs: "Mission Impossible" and "Dragnet". Prior to March 31, 1972, KMST did not receive exclusivity protection for either program, since it did not broadcast either one. But KMST now has requested protection for both from TelePrompter. KTVU has objected to KMST's request.

3. Central California Communications Corp. (hereinafter Central) also carries both KMST and KTVU. In addition to KMST and KTVU, Central carries Television Broadcast Stations KPIX, Channel 5 (CBS), and KRON-TV, Channel 4 (NBC), San Francisco on its cable systems. Both KMST and KTVU are significantly viewed in Santa Cruz and Monterey counties, where the systems are located, and therefore must be carried pursuant to either § 76.59 or 76.61 on each system. Neither KPIX nor KRON-TV is significantly viewed in either county but both are market signals and must be carried pursuant to § 76.61 on the systems located in the San Francisco-Oakland-San Jose market. All of Central's systems are located within the predicted Grade A contour of KMST and the predicted Grade B contours of KTVU, KPIX and KRON-TV. On March 31, 1972, Central provided exclusivity protection to KMST pursuant to former § 74.1103 as to both network and non-network programming. KMST currently is requesting exclusivity for syndicated programs which Central claims had the following status on March 31, 1972:

¹ Former § 74.1103 of the rules states in pertinent part that, "Where a station is entitled to program exclusivity, the CATV system shall, upon the request of the station licensee or permittee, refrain from duplicating any program broadcast by such station, on the same day as its broadcast by the station, if the CATV operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. Upon request of the CATV system, such notice shall be given at least 8 days prior to the date of any broadcast to be deleted."

Program	March 31, 1972, status	Station presently carrying the program (against which exclusivity is requested)
Lawrence Welk	KMST was operating under a contract running from September 1971-August 1972 to broadcast these programs.	KPIX
Wild Kingdom		KRON-TV
Mike Douglas	Network program series	KPIX
Mission Impossible		KTVU
Good Ole Nashville	Television Broadcast Station KBBW-TV was under contract to broadcast these programs.	KTVU
Dragnet		KTVU
Rock Concert	Not in existence.	KGO-TV

KTVU has objected to KMST's request for protection on Central's cable television systems.

4. KMST is not entitled to syndicated program exclusivity pursuant to §§ 76.151 and 76.153⁴ of the rules because it is not licensed to a major market. Additionally, three of the cable television communities—Salinas, Serra Village and San Benancio—are not located within major television markets. KMST asserts that it is entitled to such protection, however, pursuant to the grandfather provisions of § 76.99.⁵ Since it was entitled to exclusivity protection for its non-network programming prior to March 31, 1972, KMST believes it continues to have the right to request protection for all of its syndicated programming, whether or not a specific program was being carried and protected on March 31, 1972. On the other hand, KTVU argues that § 76.99 grandfathers only the specific syndicated programs which were subject to exclusivity rights prior to March 31, 1972, and that a cable system is not required to provide protection for programs which are no longer subject to an exclusivity contract which was in effect on March 31, 1972.

5. In the Cable Television Report and Order, FCC 72-108, 36 FCC 2d 143, we first distinguished for exclusivity pur-

⁴ Section 76.151(b) of the rules provides that: (b) No cable television system, operating in a community in whole or in part within a major television market, shall carry a syndicated program, pursuant to §§ 76.61 (b), (c), (d), or (e), or 76.63(a) (as it refers to § 76.61(b), (c), (d), or (e)), while a commercial television station licensed to a designated community in that market has exclusive broadcast exhibition rights (both over-the-air and by cable) to that program * * *

Section 76.153(b) of the rules provides in pertinent part: (b) Television broadcast stations licensed to designated communities in the major television markets shall be entitled to the exclusivity provided by § 76.151 (b).

⁵ Section 76.99 of the rules states that: "The provisions of §§ 76.91, 76.93, 76.151, and 76.153 shall not be deemed to deprive a television station whose signal was carried by a cable television system prior to March 31, 1972, of the non-network program exclusivity rights that such station had on March 30, 1972; Provided, however, That such exclusivity rights shall extend only to simultaneous duplication of programming by lower priority television stations, unless the station whose exclusivity rights are at issue is entitled to same-day network program exclusivity pursuant to § 76.93(b), in which case that station shall also be entitled to continued same-day non-network program exclusivity."

poses between network and non-network programming. In the Reconsideration of the Cable Television Report and Order, 36 FCC 2d 326, FCC 72-530, Par. 67, we stated, that "we restore to stations whose signals were carried by a cable system prior to March 31, 1972, the non-network exclusivity rights that they enjoyed under former § 74.1103, but on a simultaneous-only basis." And the grandfather rule thus states that a station whose signal was carrier prior to March 31, 1972, shall not be deprived of the non-network exclusivity rights it enjoyed on March 31, 1972. This right, provided by former § 74.1103 of the rules, was a right to exclusivity as a program outlet and it required the cable system to refrain from duplicating any program broadcast on the same day by a station of lower priority. The right attached to the signal and covered whatever programs might be broadcast, not any particular programs. Since the grandfather rule continues a right, it continues the same right—the right to non-duplication of whatever non-network programs are broadcast, limited now to simultaneous non-duplication. The right does not depend upon the continued broadcast of any particular program or programs. This right is circumscribed only in the following manner: (a) A station must have been carried by a cable television system prior to March 31, 1972; (b) it must have been extended non-network exclusivity protection by the cable system against lower priority television stations; (c) the protection has been reduced to a "simultaneous-only" basis outside the Mountain Time Zone. The station's rights to such exclusivity protection persist regardless of whether the particular program for which protection is being sought is the same program which received non-network protection prior to March 31, 1972.

Accordingly, *It is ordered*, That the "Request for Declaratory Ruling Concerning § 76.99 of the Commission's Rules," filed by TelePrompTer Cable System, Inc., is granted in accordance with this opinion.

It is further ordered, That the "Request for Declaratory Ruling," filed by Central California Communications Corporation, is granted in accordance with this opinion.

Adopted: March 12, 1975.

Released: March 24, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-8469 Filed 4-1-75; 8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Establishment of Special Committee 130

The Federal Communications Commission has determined that the establishment of Special Committee 130, "Reliability Specifications for Airborne Electronics Systems", as a subcommittee of the Radio Technical Commission for Aeronautics is in the public interest and necessary in order to discharge the agency's responsibilities. Notice of establishment is hereby published.

The purpose of RTCA Special Committee 130 is to: Investigate the various means of determining and specifying reliability for electronic systems recommended by RTCA Minimum Performance Standards; Assess the significance of specifying MTBR and MTBF for safety of flight electrical and electronic equipment; Recommend which, if any, of these available techniques may be applicable for incorporation into Minimum Performance Standards. During its investigations, the Special Committee should review the techniques employed by both civil and military agencies to improve reliability, and the result these techniques have achieved.

The final report of Special Committee 130 is expected to be completed no later than April 1, 1976.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-8478 Filed 4-1-75; 8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

As a matter of public notice, members of the Executive Committee of the Radio Technical Commission for Aeronautics will meet on administrative matters on Friday, April 25, 1975, in Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The agenda for the meeting is:

1. Approval of the minutes of the March 21, 1975, meeting.
2. Special Committee activities report for April, 1975.
3. Chairman's report on RTCA administration and activities.
4. Proposed changes to RTCA Document DO-161.
5. Proposed guidelines for implementation of future Minimum Performance Standards.
6. Changes to RTCA constitution and by-laws.
7. Other business.
8. Date and place of next meeting.

Meetings of the Executive Committee are open to the public subject to limitations of space available. Persons planning to attend or who desire additional information concerning this meeting should contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone area code (202) 296-0484.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-8466 Filed 4-1-75; 8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 130—Reliability Specifications for Airborne Electronics Systems. The meeting is to be held on May 22-23, 1975, in RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. The meeting will commence each day at 9:30 a.m.

The agenda is as follows:

1. Opening comments from the Chairman.
2. Review terms of reference and definition of systems reliability.
3. Review events leading up to determination of MTBF for ground proximity warning system.
4. Review international consideration of reliability specifications.
5. Reliability specifications for airborne electronic systems as related to reliability of the National Airspace System (to be presented by the FAA).
6. NTSB views on reliability specifications for airborne electronic systems.
7. Military views on systems reliability.
8. Identify special committee work program:
 - a. Collection of information and establishment of required studies.
 - b. Consideration of task assignments.
 9. Other business.
 10. Date and place of next meeting.

NOTE.—Participants are requested to bring to this meeting for the Special Committee Library a copy of current of proposed Reliability Documents.

Meeting of Special Committee 130 are open to the public subject to limitations of space available. Persons planning to attend or who desire additional information concerning this meeting should contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone area code (202) 296-0484.

FEDERAL COMMUNICATIONS
COMMISSION,

(SEAL) VINCENT J. MULLINS,
Secretary.

[FR Doc.75-8477 Filed 4-1-75;8:45 am]

FEDERAL MARITIME COMMISSION

JAPAN LINE, LTD. ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington,

D.C., 20573, on or before April 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

JAPAN LINE, LTD., KAWASAKI KISEN KAISHA, LTD., MITSUI O.S.K. LINES, LTD., YAMASHITA-SHINNIHON STEAMSHIP CO.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 9718-3, among the four carriers listed above, modifies Article 10 of the basic agreement to provide that the authority conferred under Agreement No. 9718, providing for the operation of a containership service by these carriers in the trade between Japan and California, shall continue in effect to and including August 22, 1977. The present expiration date for the authority conferred under Agreement No. 9718 is May 2, 1975.

By Order of the Federal Maritime Commission.

Dated: March 28, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-8527 Filed 4-1-75;8:45 am]

NIPPON YUSEN KAISHA AND
SHOWA SHIPPING CO., LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a

statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 9731-5, between the two carriers listed above, modifies Article 11 of the basic agreement to provide that the authority conferred under Agreement No. 9731, providing for the operation of a containership service by these carriers in the trade between Japan and California, Hawaii and Alaska, shall continue in effect to and including August 22, 1977. The present expiration date for the authority conferred under Agreement No. 9731 is May 2, 1975.

By Order of the Federal Maritime Commission.

Dated: March 28, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-8528 Filed 4-1-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP71-130, RP72-58,
RP74-39-11]

TEXAS EASTERN TRANSMISSION CORP.

Certification of Proposed Settlement Agreement

MARCH 27, 1975.

Public notice is hereby given that on March 26, 1975, Presiding Administrative Law Judge Morse certified to the Commission a stipulation and agreement, drafted by the parties of interest, as a proposed settlement of the issues raised in Docket No. RP74-39-11, said docket having been consolidated, for purposes of hearing and decision, with Docket Nos. RP71-130 and RP72-58, pursuant to an order of the Commission issued January 17, 1975.

Under the proposed settlement, Texas Eastern Transmission Corporation (TETCO) would alter its present method of calculating the demand charge adjustments for its DCQ Rate Schedule customers. Since July 2, 1974, the date on which TETCO's demand charge adjustment (DCA) provisions became effective, TETCO has made adjustments for a customer only on those days on which the customer requested 96 percent or more of its curtailed maximum daily quantity. Under the proposed settlement, TETCO will make demand charge adjustments for a DCQ customer on a monthly basis, calculated on the difference between the customer's actual monthly takes and the

monthly quantity taken by that customer during the corresponding month of the proforma year used to establish annual quantity entitlements.

TETCO has agreed to file revised tariff sheets reflecting the changes agreed to in the stipulation and agreement, and described above, within ten days of the date on which the Commission order approving the settlement becomes final. The new sheets will become effective as of July 2, 1974. Texas Eastern will make special one time refunds and recoup these through charges to its DCA Commodity Surcharge Accounts to effect the retroactive changes in its tariff.

Article III, section 2 of the stipulation and agreement provides that the settlement shall become effective only if the Commission, in its order approving the settlement, waives TETCO's refund liability for the difference between its present and proposed methods of implementing its DCA provisions.

Initial comments by the parties shall be filed by April 7, 1975. Reply comments shall be filed by April 21, 1975.

Any person desiring to be heard or to make protest with reference to said filing should on or before April 7, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The stipulation and agreement is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-8455 Filed 3-28-75; 10:32 am]

[Docket No. RP74-96]

NATURAL GAS PIPELINE CO. OF AMERICA Notice of Conference

MARCH 31, 1975.

Take notice that on Wednesday, April 9, 1975 a conference of all interested persons in the above-referenced docket will be convened at 2 p.m. in Room No. 5200 at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the Rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of National Gas Pipeline's proposed tariff changes, any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached by the parties in attendance at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-8762 Filed 4-1-75; 11:18 am]

GENERAL ACCOUNTING OFFICE FEDERAL ENERGY ADMINISTRATION Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 26, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before April 21, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information about the item in this notice may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL ENERGY ADMINISTRATION

Request for clearance of Form FEA P314-M-O, "Monthly Survey of Distillate and Residual Fuel Oil Sales to Ultimate Consumer". This new monthly questionnaire is a follow-on to FEA Form P308-S-O (Historical Survey of Propane, Distillate Fuel Oil, and Residual Fuel Oil Sales to Ultimate Consumer). Potential respondents are a sample of firms, as selected by FEA, which sell distillate and/or residual fuel oil directly to ultimate consumers. The sample will include all refiner/importer marketers and a lesser number of other marketers. The size of the sample will be approximately 1,500 firms. The questionnaire is mandatory under Pub. L.

93-159 & Pub. L. 93-275. Respondent burden is estimated to average about 40 hours per month per respondent.

NORMAN F. HEYL,
Regulatory Reports
Review Officer.

[FR Doc.75-8520 Filed 4-1-75; 8:45 am]

INTERSTATE COMMERCE COMMISSION Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 28, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before April 21, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information about the item in this notice may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

INTERSTATE COMMERCE COMMISSION

Request for an extension no change of Form OP-F 45, "Application for Authority Under Section 5, Interstate Commerce Act, to Acquire Control of a Motor Carrier of Motor Carriers Through Ownership of Stock, or Otherwise." All carriers or persons seeking to acquire control of a Motor Carrier through ownership of stock are subject to this requirement. Approximately 100 applications are filed each year and the average number of hours required per response is estimated to be 600, with a range from 200 hours for smaller revenue motor carriers to 1000 hours (minimum) for large motor carriers.

NORMAN F. HEYL,
Regulatory Reports
Review Officer.

[FR Doc.75-8521 Filed 4-1-75; 8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 75-24]

NASA ADVISORY BOARD ON AIRCRAFT FUEL CONSERVATION TECHNOLOGY

Notice of Establishment

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92-463), and after consultation with the Office of Management and Budget, the NASA Administrator has determined that the establishment of an Advisory Board on Aircraft Fuel Conservation Technology is in the public interest in connection with the performance of duties imposed upon NASA by law.

The functions of this Advisory Board will include the review and evaluation of the aircraft fuel conservation technology program under way and planned in NASA in terms of its adequacy and timing with respect to future civil aviation requirements. The Advisory Board will provide advice and recommendations on the objectives, approach, content, and technical balance of the NASA technology program in this area and its relationship to complementary activities in other Government agencies and the civil sector.

The Advisory Board will also advise NASA on the means available to encourage utilization of fuel conservation technology developments in the civil air transportation system.

DUWARD L. CROW,
Assistant Administrator for
DOD and Interagency Affairs,
National Aeronautics
and Space Administration.

MARCH 28, 1975.

[FR Doc.75-8623 Filed 4-1-75; 8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE ADVISER WITH SCIENTIFIC AND TECHNICAL SOCIETIES

Meeting

In order to improve channels of communication with members of scientific and technical societies, the Science Adviser and members of his Science and Technology Policy Office hold informal discussions from time to time with various representatives of these societies to discuss issues of mutual interest. While these ad hoc informal discussions are not considered to be meetings of "advisory committees" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-436), these sessions are believed to be of sufficient importance and interest to the general public to have them opened for public attendance and observation.

A meeting of representatives of various scientific and technical societies with the Science Adviser and members of his Science and Technology Policy Office is scheduled to be held on Monday, April 14, 1975, in the Board Room of the National Science Foundation, Room 540, at 1800 G Street NW., Washington, D.C. 20550. The meeting will begin at 9:30 a.m. and will conclude at approximately 4:15 p.m. The general subject matter will be scientific and technical manpower, and discussions will focus on the impact of changing national objectives of science and engineering manpower; Federal programs affecting the supply of scientists and engineers; data needs; and programs to relieve the impact of unemployment.

Members of the public are invited to observe this meeting. Space will be available on a first-come, first-served basis. Public participation is limited to questions or statements submitted to the Chairman in writing or to such oral presentations as the Chairman may permit within the available time. Persons wishing to attend such a meeting are requested to either write or phone Mr. Richard L. Stone, STPO, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, telephone 202/632-4259.

Dated: March 27, 1975.

RUSSELL C. DREW,
Director,
Science and Technology Policy Office.

[FR Doc.75-8485 Filed 4-1-75; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482A]

KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER AND LIGHT CO. (WOLF CREEK GENERATING STATION, UNIT NO. 1)

Antitrust Hearing

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the regulations in Title 10, Code of Federal Regulations, Part 50, and Part 2, the notice published in the FEDERAL REGISTER of December 23, 1974 (39 FR 44269) by the Atomic Energy Commission, as statutory predecessor of the Nuclear Regulatory Commission, and the memorandum and order dated March 27, 1975, granting the petition of Kansas Electric Cooperatives, Inc. for leave to intervene in this proceeding and directing a hearing to determine whether the activities under the proposed construction permit would create or maintain a situation inconsistent with the antitrust laws as provided in subsection 105(c) of the Atomic Energy Act of 1954, 42 USC 2135(c), a hearing will be held at a time and place to be designated by the licensing board. The members of the board designated by the Chairman of the Atomic Safety and Licensing Board Panel are Margaret M. Laurence, Sidney G. Kingsley, and Marshall E. Miller, Chairman.

The application, and a letter of the Attorney General dated December 10, 1974, have been placed in the Public Document Room of the Nuclear Regulatory Commission at 1717 H Street NW., Washington, D.C. As they become available, the transcripts of the prehearing conference and of the hearing will also be placed in the Public Document Room and will be available for inspection by members of the public. Copies of the foregoing documents will also be available at Office of County Clerk, c/o Miss Joan Cox, Coffey County Courthouse, Burlington, Kansas 66839.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issue specified, but who has not filed a petition for leave to intervene, may request permission to make a limited appearance

pursuant to the provisions of 10 CFR 2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the board, within such limits and on such conditions as may be fixed by the board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, on or before May 2, 1975. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing. A member of the public does not have the right to participate in the proceeding unless he has been granted the right to intervene as a party or the right of limited appearance.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Supervisor, Docketing and Service Section, 1717 H Street, NW., Washington, D.C. Pending further order of the board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and twenty conformed copies of each such paper with the Commission.

Issued at Bethesda, Maryland, this 27th day of March, 1975.

ATOMIC SAFETY AND LICENSING BOARD,¹
MARSHALL E. MILLER,
Chairman.

[FR Doc.75-8456 Filed 4-1-75; 8:45 am]

[Docket Nos. 50-502A and 50-503A]

WISCONSIN ELECTRIC POWER COMPANY, ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c, of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated March 14, 1975, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by May 2, 1975 either (1) by delivery to the NRC Public Docketing and Service Section at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, Nuclear Regulatory Commission, Washington, D.C.

¹ Established to rule on petitions for intervention.

20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust &
Indemnity, Nuclear Reactor
Regulation.

APPENDIX A

KOSHKONONG NUCLEAR GENERATING PLANT
UNITS 1 AND 2, WISCONSIN ELECTRIC POWER
CO.; WISCONSIN PUBLIC SERVICE CORP.; WIS-
CONSIN POWER AND LIGHT CO.; AND MADISON
GAS AND ELECTRIC CO.

MARCH 14, 1975.

You have requested our advice pursuant to the provisions of section 105c of the Atomic Energy Act, as amended, in regard to the above-cited application.

1. *Facility Involved.* The Koshkonong Nuclear Generating Plant, Units 1 and 2, will consist of two 900 MW units located near Fort Atkinson, Wisconsin. The plant will be jointly owned as tenants in common by four investor-owned utilities: Wisconsin Electric Power Company (58.6 percent), Wisconsin Power and Light Co. (19.1 percent), Wisconsin Public Service Corporation (16.0 percent) and Wisconsin Gas and Electric Company (6.3 percent). Unit 1 is scheduled to go into operation in 1983 with Unit 2 following in 1984. The estimated cost of the two units at completion is projected to be about \$1.2 billion. Applicants intend to utilize these units to provide base load power to be integrated into their electric bulk power supply systems and to market the power therefrom as a portion of their respective system output. Wisconsin Electric Power Company has primary responsibility for design, construction and operation of the plant.

2. *The Applicants.* Wisconsin Electric Power Company (WEP) is a vertically integrated business engaging in the generation, transmission, distribution and sale at retail and wholesale of electric energy to approximately 685,500 customers in southeastern Wisconsin. Its subsidiary, Wisconsin-Michigan Power Company (WMP) is also a vertically integrated company engaging in the generation, transmission, distribution and sale of electricity to about 86,200 customers in east central and northern Wisconsin and in the upper peninsula of Michigan. Another subsidiary of WEP, Wisconsin Natural Gas Company, furnishes gas service in southeastern Wisconsin. In 1973 the combined companies received 83 percent of total operating revenues and 92 percent of total operating income from electrical operations. WEP and WMP operate their electrical properties as an integrated system whereby the entire generation and high voltage transmission plant of both companies is considered as supplying power to both companies, and each company pays its proportionate share of the cost associated with the operation of the combined facility.¹ In 1973 the two companies together had a maximum peak load demand of about 3.2 million kw and a total combined generating capability of about 3.6 million kw. The combined companies have a total of 75 generating units consisting of two nuclear generating units (Point Beach), 38 hydroelectric plants, six combustion turbines, and the balance coal fired steam

plants. As of May 31, 1974, the combined system had 2,778 miles of transmission lines, including 504 miles of 345 kv and 123 miles of 230 kv extra high voltage transmission lines and operated 22,608 pole miles of distribution line.

Wisconsin Power and Light Company (WPL) is a vertically integrated company engaging in the production, transmission, distribution and sale at retail and wholesale of electricity in an area of approximately 16,000 square miles in central and southwestern Wisconsin. WPL also distributes natural gas in the same general areas.² WPL obtains about 76 percent of its operating revenues from sales of electricity. The company operates four coal fired steam electric generating plants with capacity of 546.2 MW, two gas turbine generators with capacity of 42.3 MW, three gas oil turbines with capacity of 141.6 MW and six hydro electric generation plants with an aggregate dependable capacity of 41,220 KW. WPL also receives power from a 333 MW coal fired steam generating unit (Edgewater unit) owned with Wisconsin Public Service Corporation in which WPL has a 68.2 percent share. WPL operates this plant, WPL, together with Wisconsin Public Service Corporation and Madison Gas and Electric Company, jointly own a 540 MW nuclear generating plant (Kewaunee unit). WPL has a 41 percent interest in the Kewaunee unit which is operated by Wisconsin Public Service Corporation. WPL, Wisconsin Public Service Corporation, and Madison Gas and Electric jointly own a 527 MW coal fired steam electric generating unit (Columbia Generation Station). WPL receives 39.3 percent of the output of this unit and upon completion of a second jointly owned 527 MW unit will receive 46.2 percent of the total power generated at the Columbia plant. WPL owns one-third of the capital stock of the Wisconsin River Power Company which owns and operates two hydro-generating plants having an aggregate capacity of 35 MW from which WPL receives one-third of the electrical output. In 1973 WPL had a peak demand of 1,032,000 kw, of which 88.6 percent was supplied by its generating facilities and 11.4 percent was purchased from other sources. Overall, WPL produces approximately 90.6 percent of its total energy demands and purchases the remaining. WPL owns and operates 18,500 miles of transmission and distribution lines, WPL and Madison Gas and Electric have recently been granted permission to construct 110 miles of 345 kv transmission lines extending from the Columbia plant to the Madison area and on to the Illinois State Line.

Wisconsin Public Service Corporation (WPS) is a vertically integrated company engaging in the generation, transmission, distribution and sale at retail and wholesale of electrical energy to some 235,000 electrical customers in a service area territory of about 10,000 square miles in northeastern Wisconsin and an adjacent part of the Michigan upper peninsula. Approximately 67.9 percent of its operating revenues are derived from sales of electricity with the remainder from sales of natural gas. The company generating capacity consists of 555.5 MW of wholly-owned steam plant facilities, 41.2 percent of the Kewaunee nuclear plant output or about 223 MW capacity, 31.8 percent share of the Edgewater Steam Plant or about 100.9 MW capacity, four combustion turbines with aggregate capacity of 182.3 MW, two diesel plants with an aggregate capacity of 7,300 kw and fifteen hydroelectric plants with an aggregate capacity of 51 MW. WPS also has one-third interest in the Wisconsin River Power

Company and receives one-third of its output. This gives the company a total capability of 1,131 MW. In 1973 the peak demand was 824 MW. The company has 17,151 route miles of electric transmission and distribution lines.

Madison Gas and Electric Company (MGE) is a vertically integrated company engaged in the generation, transmission, distribution, and sale at retail of electric power in a service area of about 222 square miles consisting primarily of the cities of Madison, Middleton, and Monona, Wisconsin. In 1973 approximately 62 percent of MGE operating revenues was derived from electrical sales and the remainder from gas distribution business. In 1973 MGE had a total generating capacity of about 288 MW of capacity provided by coal fired steam plant and combustion turbine peaking units. MGE purchased 75 MW of firm capacity from Wisconsin Electric Power Company pursuant to a contract effective until May 31, 1975. MGE's 1973 peak demand was about 350 MW. The company has determined that it can most economically expand its base load electrical generation capability through jointly owned projects with other electric utilities. Pursuant to this determination the company is participating in the Kewaunee nuclear generating facility and the Columbia generation facility with Wisconsin Public Service Corporation and Wisconsin Power and Light receiving 17.8 percent and 21.8 percent respectively of the output of those two facilities. Upon completion of the second 527 MW unit at the Columbia plant in 1978 MGE will take 22.2 percent of the total output of that facility. MGE has a 345 kv single circuit transmission line from Fond du Lac to Madison providing an interconnection with WPL and indirectly with WPS. MGE also has a 138 kv double circuit transmission line interconnecting with WEP and WPL.

3. *Pools and Coordinating Groups.* WPL, WPS and MGE comprise the Wisconsin Power Pool; a pool providing for the planning and scheduling of new facilities and the sale and purchase of capacity in order to equalize the reserves of the participating companies. This pool was originally formed in 1960 by WPS and WPL with MGE joining in 1968.³ The pool has been reformed in a power pool agreement dated July 26, 1973; this agreement does not set forth in any respect entry requirements for new members. Participation in this joint power pool agreement obtains for the three companies the benefits of advanced technologies in the economies of scale of power production while making the most effective use of existing power generation and transmission facilities, and assures the participants a supply of economical reliable electric power. Under the aegis of this pool arrangement the Edgewater and the Columbia coal fired plants as well as the Kewaunee nuclear plant were constructed.

The four applicant companies—WEP, MGE, WPS, and WPL—together with WMP and Upper Peninsula Power Company⁴ constitute

¹ An undated study in documents provided by WPL projected a \$21,000,000 savings for the three companies over the period 1966-1980 if they entered into a power pooling and coordination arrangement.

² Upper Peninsula Power Company is an investor-owned integrated electrical utility located wholly in the Michigan upper peninsula. In 1972 it had 240.3 MW peak load with 124.9 MW installed generation capacity. It is interconnected to WUMS through Wisconsin Michigan Power Company. Upper Peninsula engages in coordinated planning and ownership of generation facilities with Cleveland Cliffs Iron Co., a private corporation engaged primarily in the business of mining.

³ WPC also sells water which provided 1.8 percent of its total operating income in 1973.

⁴ WEP owns all of the common stock and none of the preferred stock of Wisconsin-Michigan which gives WEP approximately 98.9 percent of the voting securities. Both companies have the same officers and for the most part directors and share the same corporate offices.

the Wisconsin Upper Michigan System (WUMS) power pool.⁶ WUMS was formalized by agreement signed on September 11, 1968.⁷ The agreement provides for adoption of operating procedures and standards to obtain increased reliability and economy in utilizing capacity to meet day-to-day demand and reserve requirements, and for long range coordinated planning and development.

The WUMS organization represents the member companies in the Mid-American Interpool Network (MAIN). MAIN is a power planning group composed of individual power suppliers located in Wisconsin, Illinois, Missouri, Iowa and Minnesota. MAIN's purpose is to promote regional coordination of planning, construction and operation of the member generation and transmission facilities with an emphasis on reliability and economy. As an example of the benefits of participating in MAIN, WEP was able to defer construction in 1964-65 of a major unit for some eight months by purchasing some 300 MW power from Commonwealth Edison Company.

4. *Competitive Considerations.* A. *Wholesale and Retail Competition.*—Sales of bulk power at wholesale constitutes delivery to a customer who either resells the power at retail to ultimate customers or resells it at wholesale. Wholesale power sales are normally under the jurisdiction of the Federal Power Commission,⁸ and competition in the wholesale power market is not subject to legally imposed restraints. In the State of Wisconsin wholesale power customers consist primarily of municipalities which distribute electricity to ultimate customers, rural electric cooperatives which distribute electric power to their members, and investor-owned utilities which distribute electric power to their customers. With the exception of MGE the applicant companies provide wholesale service to various types of customers within their general service area. These wholesale purchasers are potential competitors of applicant companies in that they could install generation for supplying their own needs and/or for selling power at wholesale. Other smaller systems which have generation constitute actual competitors of the applicant companies. As discussed below, in order for viable wholesale competition to exist small systems must have the ability to obtain and transmit power from and to other wholesale power suppliers or customers.

Retail competition can and does exist under the laws of the State of Wisconsin. A municipality whose residents are supplied by a utility may acquire the distribution facilities and itself begin to serve electricity to its residents.⁹ The distribution system of a retail supplier can be purchased by another electric utility, and on several occasions cooperatives and investor-owned companies have sought to purchase the distribution system of an electric utility. State law prohibits under certain circumstances the duplication of distribution facilities;¹⁰ however, this does not preclude competition for new retail loads.

⁶ The Department has been informed that the WUMS agreement has recently been amended to reflect the operation of WEP and Wisconsin-Michigan as one system, thus effectively deleting Wisconsin-Michigan as a signatory member of WUMS with separate voting and representation rights.

⁷ This organization was previously known as the Wisconsin Planning Group from May 1963 until 1968.

⁸ *Federal Power Commission v. Southern California Edison*, 376 U.S. 205 (1964) (FPC's jurisdiction extends to all wholesale sales in interstate commerce.)

⁹ Wisconsin Statutes, section 66.065 (1971).

¹⁰ Wisconsin Statutes, section 196.495 (1971).

Consequently, vigorous competition does take place for new retail loads which locate within an area accessible to several electric power suppliers. Retail territorial boundary agreements can be filed with and approved by the Wisconsin Public Service Commission. Such agreements have been entered into between the applicant companies and some municipal systems, and between some applicant companies and rural electric cooperatives.¹¹ In the case of rural electric cooperatives, larger retail loads are exempted from such agreements.

B. *Structure of the Industry.*—The structure of the electric power industry can be viewed from three functional aspects, that is generation, transmission, and distribution of electric power. The four applicant companies (including WEP's subsidiary Wisconsin-Michigan Power Company) own or control most of the generating capacity within the areas in which they operate. Other generating capacity is owned by small investor-owned utilities, private corporations, consisting primarily of paper mills and mining operations, and by a rural electric cooperative. Several municipalities also have generating capability, often in the form of small hydro plants. The principal municipalities having generating capabilities are Manitowish with 60 MW capacity and Marshfield with 42 MW capacity, both located in the general service area of WPS, and Menasha and Kaukauna located within the general area served by Wisconsin-Michigan.¹² There is no significant generating capacity owned by others within the general area served by WPL although adjacent systems, investor-owned utilities and Dairyland Power Cooperative, have generating capacity. Dairyland is a generation and transmission cooperative having approximately 701 MW generating capacity.

The applicant companies own or control virtually all of the high voltage and all of the extra high voltage transmission lines located within their general service areas. The four applicant companies are also, as indicated above, engaged in the distribution of electric power. Other distributors of electric power are a few small investor-owned utilities and in excess of 50 municipal electric systems and rural electric cooperatives.

C. *Relevant Economies of the Electric Power Industry and Access to Such Economies.*—Bulk power supply has significant economies of scale. Power to be commercially marketable must have a guarantee of a high degree of continuity of supply. Such power is marketed as "firm power". As the electrical and mechanical generation and transmission elements of a bulk power supply system are subject to forced outage in varying degrees, it is necessary to provide for this risk of forced outage. It is less expensive for electric utilities to deal with this risk collectively since a predictable and smaller total amount of reserves will supply a satisfactory degree of service continuity for the participants.

Demand for electrical power has tended to grow at a steadily increasing rate. In contrast, installation of new generation capacity necessary to meet growth and load tends to be lumpy: costs are mainly incurred before a new unit commences operation and ordinarily the entire generating output of a new unit becomes available shortly after construction and testing. The economies of

installing increasingly large units of capacity must, therefore, be offset with the diseconomies of idling a portion of that capacity until demand grows sufficiently to require its full utilization. Through the coordinated planning of new generation capacity bulk power suppliers are able to minimize such diseconomies by, for example, joint ownership of generation capacity and/or staggered construction of new capacity and term sales of capacity.

High voltage transmission is the integrating and coordinating medium for bulk power supply. It integrates and coordinates generation to take advantage of dealing with the risk collectively; it integrates and coordinates loads so that facilities can be planned to meet pool load growth. Such reserve sharing, coordinated development, and other types of coordination available through high voltage and extra high voltage transmission, make possible the economies of scale in bulk power supply to systems participating in such coordination.

As discussed above, applicant companies are members and participants in various pool arrangements which provide the economies and reliabilities described above. In particular, they have undergone coordinated planning and operation under the auspices of the WUMS agreement. This agreement has not been formally filed with or approved by either the Federal Power Commission or the Wisconsin Public Service Commission. The WUMS agreement provides for the installation of generating capacity for the purpose of meeting the combined load of the members. Installation of new generating facilities to be owned either individually or collectively is on the basis of the most economical size, and such facilities are located where they will best serve the combined load. New facilities are constructed to maintain installed reserves equal to or exceeding the minimum requirement for reliable performance of the combined systems. Pursuant to the agreement additional transmission facilities are installed to insure the reliability and service continuity of the combined systems. WUMS' members have adopted uniform operation procedures and practices that effectively set standards for reliable and economical operation. The construction of the Koshkonong nuclear generating plant exemplifies the benefits obtained by these companies through coordinated planning of new generating facilities and collective ownership of the facilities.

The WUMS agreement provides that membership shall be open to all companies meeting the following qualifications: (1) each must own and operate substantial amounts of generation capacity; (2) each must have a high capacity interconnection (115 kv or above) with a present member of WUMS and have operations which are significant to the reliability of the WUMS interconnected system; (3) each must own or participate in the operation of up-to-date system operating center with adequate intra and inter company communication facilities; and (4) each must be located in Wisconsin or the Michigan upper peninsula. New members must also be members of MAIN.

The terms of the WUMS' entry requirements raise substantial cost barriers for smaller systems and effectively preclude such systems from qualifying. Since the applicant companies control all the transmission lines necessary to small systems gaining comparable benefits from coordination with others, the Department undertook to have each applicant company clarify its interpretation of the membership requirement language. The initial responses from the applicant companies did not allow a confident conclusion that small systems will have an

¹¹ See Wisconsin Administrative Code, PSC 112.02.

¹² Menasha and Kaukauna are interconnected by their own transmission line and have a combined generation capability of approximately 78,550 kw.

opportunity to gain access to the WUMS agreement, and thus to nuclear generated power.

Moreover, an examination of the contracts between applicant companies and the municipal systems having generation located within the general area of the applicant companies indicated that the small companies have not in the past received same relative benefits as accrue to the applicant companies through the WUMS agreement.

The municipalities and rural electric cooperatives in the State of Wisconsin have recently employed the engineering consulting firm of R. W. Beck and Associates to make a power survey to examine the various alternatives for future bulk power supply available to these systems. Without going into detail as to the findings of that study, it is relevant to note that the study concluded that the most economical alternative available to such systems was to undertake a coordinated development arrangement with the applicant companies. This would include joint ownership or staggered construction of future generation, including nuclear units, as well as coordinated operations and planning. Another economical alternative source of power would be the installation of generating and transmission facilities by the publicly owned systems and coordination of reserves with the applicant companies.

D. Antitrust Review.—Upon receipt of the application from your predecessor Commission, the Department made inquiries of other electric systems located within the general service areas of the applicant companies. These inquiries were designed to elicit information about the structure of the electric power industry within those areas and the competitive conduct of the applicant companies.

With respect to MGE, the Department received no allegation of conduct which would be inconsistent with the antitrust laws. MGE has no wholesale customers and geographically serves a small compact area which, for the most part, is surrounded by WPL. MGE and WPL vigorously compete for large retail loads in those areas where their systems interface. The two companies are or have been engaged in litigation with respect to the right to provide service to new large retail loads.

However, because MGE participates in the WUMS agreement, the Department sought to ascertain the policies of MGE with respect to providing access to the Koshkonong nuclear plant and entering into bulk power exchange arrangements with small electric systems in order to make their access to the nuclear plant viable. MGE has provided satisfactory policy assurances in these respects and is also willing to have them incorporated as conditions to the Koshkonong construction permit and operating license. Attached hereto is a February 7, 1975 letter from MGE concerning these matters.

MGE affirms that it will make the following type of arrangements with other electric power systems in south central Wisconsin: access to the Koshkonong Nuclear Power Units, 1 and 2, as well as future nuclear units; interconnection and reserve sharing; sales of bulk power for full or partial requirements; transmission services over existing facilities and coordinated planning of future facilities; and bulk power exchanges. Furthermore, MGE affirms that it has no understanding with the other applicant companies that would prohibit or restrain MGE from making such arrangements.

With respect to WEP, WEP's subsidiary WMP, and WPS, our inquiries disclosed that a number of smaller systems in their general areas are interested in access to the Koshkonong nuclear units. Within their respective areas the three companies own or control virtually all transmission lines. Certain in-

formation brought to the Department's attention raised questions as to possible misuse of these companies' dominance of transmission and generation. WEP and WPS denied involvement with any anticompetitive policies or practices, but in order to resolve any possible question each was willing to enunciate a procompetitive policy with respect to bulk power supply and access to nuclear generated power and to accept conditions to the Koshkonong construction permit and operating license incorporating such policy. Letters to the Department of Justice to this effect from WEP (for itself and WMP) and WPS, dated February 7, 1975, are attached hereto. WEP, WMP and WPS affirm that each will make the same types of arrangements with electric power suppliers in the State of Wisconsin, Michigan (upper peninsula) and Illinois as described above with reference to MGE. Each company also affirms that it does not have any understanding with any other company applying for the instant license that would prohibit or impede its making of such arrangements.

We turn now to consideration of WPL. This company owns or controls virtually all the transmission lines in its general area. It appears that WPL is able to obtain maximum benefits and economies of nuclear power generation through participation in the WUMS agreement. The WUMS group also coordinates the planning and the ownership of the high and extra high voltage transmission grid found in Wisconsin. While coordinated planning enables the WUMS' members to efficiently use resources to increase the reliability of their interconnected systems and to achieve economies of scale, such coordination also insures that each member can retain ownership or control of virtually all transmission lines within its respective general area. Coordinated planning, prior to the formation of WUMS, was obtained by WPL through an organization known as the Wisconsin Planning Group. None of the smaller electric power systems located within the general service area of WPL have participated in WUMS, either as a member or informally, nor, apparently, did such systems participate in Wisconsin Planning Group. There is reason to believe that WPL coordinated its policies and practices toward small electric power systems with other Wisconsin power suppliers through the medium of WUMS. As a part of this action WPL in 1972 outlined a concerted course of conduct intended to "retain its wholesale power business and its associated goals."

Many of WPL's practices in pursuing that course have been inconsistent with antitrust principles. Thus while receiving benefits from coordinated planning and joint ventures, including joint venture facilities such as the instant Koshkonong units, WPL alone and through its coordinating group has denied similar benefits and opportunities to other small electric power systems. WPL appears to have aided in carrying out this policy by wholesale territorial agreements which WPL has had since the 1930's with the other "major" wholesale power suppliers in Wisconsin. These appear to have impaired the ability of wholesale purchasers in WPL's areas to seek out alternative bulk power supply arrangements.

Within its general service area WPL serves at wholesale all the electric power requirements of five distribution cooperatives. These cooperatives have organized Badger Power Cooperative (Badger), which intends to develop its own bulk power supply.¹²

¹² Other distribution cooperatives located in the general service area of other investor-owned electric power systems belong to Badger but are not to be construed as included in the discussion hereafter or by reference to Badger herein.

Badger began in the mid-1960's to attempt to obtain power from Dairyland Power Cooperative (Dairyland), a G&T cooperative in western Wisconsin. Such sales by Dairyland to Badger would necessitate wheeling the power over WPL's lines. WPL and Dairyland made engineering studies of the proposed wheeling arrangement. Although there were some problems, it was determined that wheeling was technically feasible. However, WPL continuously set as a precondition to any wheeling arrangement that it must receive "real benefits." The cooperatives understood this position to mean that WPL must maintain its present level of revenues and profits, a position amounting to a refusal to wheel. WPL delayed negotiation of a wheeling agreement and finally terminated negotiations after one of the cooperatives cancelled its wholesale contract. WPL's position was succinctly stated in an April 11, 1968, meeting by a WPL official, "We are the power supply business (sic). We are not willing to get rid of [the] load." WPL has steadfastly refused to make a direct interconnection with Dairyland, except for several minor interconnections of low capacity and one emergency interconnection which remains open,¹³ even though some proposed interconnections would have enabled WPL to achieve substantial economies in its operations.¹⁴

WPL also pursued a course of action designed to retain the city of Richland Center (Richland) as a wholesale customer and to frustrate Richland's development of its own generation system into a more reliable and economical system. Richland had an established interconnection with WPL and for a number of years received from WPL part of the electrical power required for its distribution to retail customers. Richland generated the remainder. In the mid-1960's Richland installed additional generation capacity to enable it to supply all its customers' electrical requirements. In 1966 after having added the capacity, Richland requested WPL to enter into a new contract providing for certain power exchange arrangements, including exchanges of economy energy, rather than a strict wholesale power sale arrangement. WPL declined to discuss the requested power exchange arrangement. Richland then cancelled its contract with WPL and initiated discussions with Dairyland Power Cooperative for the type of power exchanges and sales it desired. Upon reaching an agreement with Dairyland, Richland applied to the Wisconsin Public Service Commission for authority to construct about 3½ miles of transmission line to interconnect with Dairyland's lines. WPL vigorously opposed the application and appealed a favorable decision for Richland through the courts to the Supreme Court of Wisconsin, which affirmed the Commission's decision. Thus, after lengthy delay, Richland was finally able to construct transmission lines for an interconnection which made available to it the benefits of reserve coordination and bulk power exchanges.

Until 1974, when the Federal Power Commission required their elimination, WPL had a series of provisions in its wholesale

¹³ WPL's attitude toward the emergency interconnection was apparently influenced by consideration of whether the interconnection would put it in a "vulnerable position to a wheeling request from Dairyland."

¹⁴ One interconnection would have eliminated the rebuilding of a line at a projected savings of \$450,000.

power contracts and rate schedules applicable to cooperatives and municipalities which explicitly prevented purchases of power from any other source and prevented the resale of purchased power at wholesale.¹² In addition to the above provision, cooperatives had to take all requirements from WPL for a term of five to ten years. Municipal systems were subject to a similar obligation (except that if a city had some generation itself it was required only to purchase the remainder of its needs from WPL). Since WPL has generally followed a policy of requiring a new contract each time it upgrades a facility or makes a change in its service, the net effect has been to create a rolling kind of perpetual all-requirements contract. Moreover, wholesale purchasers were required to obtain the consent of WPL before interconnecting with any other system, without there being specified any standard for WPL to apply in determining whether consent could reasonably be withheld.¹³ The total impact of these contract provisions upon the competitive environment has been to restrict the availability of bulk power supply in WPL's general service area to virtually one supplier—WPL. The action of the FPC in requiring WPL to eliminate many of the restrictive provisions merely removes future impediments, but it alone does not enable the municipal and cooperative systems to make up the ground they have lost during the long period they were subject to these restrictions.

5. *Summary of Applicable Antitrust Principles.* The facts outlined above demonstrate that WPL has had a policy of attempting to confine small municipal and cooperative systems to the status of wholesale customers and has carried out that policy by exercising in various ways its control over bulk power supply in its region.

Principles which have evolved under the antitrust laws place distinct limits upon a supplier's exercise of monopoly power to prevent its customers from developing alternative sources of supply. Section 2 of the Sherman Act is particularly relevant to this situation. As the Supreme Court states, "The offense of monopoly under section 2 of the Sherman Act has two elements: (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from the growth or development of a superior product, business acumen or historic accident." *United States v. Grinnell Corporation*, 364 U.S. 563, 571 (1966). The question particularly relevant here is whether a person who maintains a monopoly has separately, or with others, carried out business policies which raise unnecessary "barriers to competition." *United States v. United Shoe Machinery Corp.*, 110 F. Supp. 295, 344, 345 (D. Mass. 1953), affirmed per curiam, 347 U.S. 521. The actions by WPL to prevent its wholesale customers from obtaining access to alternative bulk power supplies or to the forms of system coordination necessary to develop their own supplies appear to have created such bar-

riers to competition. The District Court in *United States v. Otter Tail Power Co.*, 331 F. Supp. 54 (D. Minn. 1971), aff'd, 410 U.S. 366 (1973) held that a utility could not use its lawful monopoly of bulk power supply (in that case a monopoly of subtransmission facilities) to impair competition at the retail level.

Apart from the question of whether WPL, acting unilaterally, has exceeded permissible bounds in attempting to prevent its customers from obtaining alternative bulk power supplies, WPL's participation with other utilities in important joint facilities and programs, such as the WUMS pool, raises additional antitrust questions. Firms which jointly control a resource which is essential to effective competition in a particular market are required, under long established antitrust principles, to grant access on equal and nondiscriminatory terms to all others engaged in the given business. See e.g., *United States v. Terminal R.R. Ass'n.*, 224 U.S. 383 (1912); *Associated Press v. United States*, 326 U.S. 1 (1945); *Gamco, Inc. v. Providence Fruit & Produce Bldg.*, 194 F.2d 484 (1st Cir. 1952), cert. denied, 344 U.S. 817 (1952). This principle applies to bulk power supply arrangements. *United States v. Otter Tail Power Co.*, 331 F. Supp. 54 (D. Minn. 1971), aff'd, 410 U.S. 366 (1973).

Other antitrust principles are relevant to evaluating the matters discussed above. Territorial division of markets by agreement constitutes *per se* violations of the antitrust laws. *United States v. Topco Associates*, 405 U.S. 596 (1972); *White Motor Co. v. United States*, 372 U.S. 253 (1963). Exclusive dealing contracts or all-requirements contracts which are of excessively long duration and which substantially foreclose actual and potential competitors from access to particular markets are unreasonable restraints of trade. A seller's placing of a general restraint or limitation upon the freedom of a purchaser to dispose of a product is an unreasonable restraint of trade and this would be particularly true where such restraint on alienation serve to foreclose competition. See *Arnold, Schwinn Co. v. United States*, 388 U.S. 365 (1967); *Standard Oil Co. v. United States*, 337 U.S. 293 (1949).

CONCLUSION

The power to be generated by the Koshkonong Nuclear Power Plant, Units 1 and 2, will be integrated into each applicant's system and will provide a low-cost base load power supply for each system. The ability to construct such units is obtained through coordinated planning with each other and with other systems. Without the ability to similarly coordinate with others smaller systems in Wisconsin cannot gain access to economies of scale in bulk power supply, particularly access to nuclear power. As indicated above, the large electric systems in Wisconsin appear to have had a common policy of not coordinating with the smaller systems. Secondly, the applicant companies own or control the transmission grid which might otherwise offer some opportunity for smaller systems to coordinate with others. With respect to MGE, WEP, its subsidiary WMP, and WPS, the Department has assurances that, to the extent they own or control the transmission grid, other electric power systems will have an opportunity to utilize their transmission lines. Furthermore, those companies have assured the Department that the smaller electric power systems in their areas will have an opportunity to engage in bulk power exchanges and coordination, as well as an opportunity to participate in their nuclear generating projects.

The specific practices of WPL in refusing to wheel power, in refusing to interconnect, in refusing to enter into reserve sharing and power exchange arrangements and in maintenance of restrictive contract provisions, demonstrate a pattern of conduct designed to prevent its wholesale customers from obtaining an alternative bulk power supply. Smaller systems in WPL's area, therefore, have no present access to nuclear power because they have no access to this Applicant's transmission grid and to the pattern of coordination arrangements which WPL maintains with other Wisconsin systems. WPL dominance will be continued if the company does not alter its policies and practices. Therefore, there is reason to believe that, absent assurances that WPL will act promptly to correct the situation, issuance of the construction permit to WPL would create and maintain a situation inconsistent with the antitrust laws.

RECOMMENDATION

With respect to MGE, WEP and WPS, if the statements of bulk power policy attached hereto were to be imposed by the Commission as conditions to the construction permit applied for in the instant docket, as is agreeable to these companies and as the Department hereby recommends, an antitrust hearing would appear unnecessary.

With respect to WPL, the Department, for the reasons elaborated above, concludes that the Commission should hold an antitrust hearing. If, however, WPL were to (1) indicate its willingness to accept license conditions similar to those agreed to by the other applicants and (2) demonstrate its good faith intention to eliminate any competitive restraints upon the smaller systems by agreeing to undertake interim negotiations with the small systems in order to assure prompt effectuation of coordinating arrangements as soon as the license conditions become effective, an antitrust hearing would not then be required.

WISCONSIN PUBLIC SERVICE CORP.

FEBRUARY 7, 1975.

Re: Koshkonong Nuclear Generating Plant, Units 1 and 2.

Attached to this letter is a Statement of Bulk Power Supply Policy which sets forth the policies that will be applicable to Wisconsin Public Service Corporation's (WPSC) bulk power dealings with other electric power utilities. We have discussed this Statement with the staff of the Department of Justice and the Staff of the Nuclear Regulatory Commission in connection with the antitrust review of the application for Construction Permit and Operating License to be issued by the Nuclear Regulatory Commission in the above-referenced proceedings.

You have indicated that if WPSC is willing to have the above-referenced Statement of Bulk Power Supply Policy and the commitments contained therein incorporated in the Nuclear Regulatory Commission permit and license, this would enable the Department of Justice to advise the Nuclear Regulatory Commission that no antitrust hearing with reference to WPSC will be necessary. We are willing to have this done based on the following understanding:

1. Nothing in the Statement of Bulk Power Supply Policy or in this letter shall be construed as a waiver by WPSC of its rights to contest the application of any commitment therein to a particular factual situation.

2. By this Statement of Bulk Power Supply Policy WPSC does not waive any rights that it may have to apply to any appropriate forum to seek such changes in the Statement of Policy as may at the time be appropriate in accordance with the then existing law and good operating practice.

¹² WPL justified the restraint on resale as necessary to prevent the cooperatives from taking advantage of a special low rate tailored to their load characteristics in order to resell power to municipal systems with very different load characteristics. The restriction, however, was obviously broader than necessary to accomplish the legitimate purpose of identifying relevant load characteristics.

¹³ For example, when the city of Stoughton contemplated selling its hydro plants to a private corporation and buying back the power output WPL was reluctant to allow this arrangement. WPL, however, decided it would consent if the private corporation gave assurances the amount of power sold would never exceed a specified limit.

3. WPSC does not intend, and shall not become, by this Statement of Bulk Power Supply Policy or by operations in accordance therewith, to become a common carrier.

4. Nothing in this Statement of Bulk Power Supply Policy or in this letter shall be construed to affect in any manner the franchises, indeterminate permits, or certificates or authority of WPSC.

STATEMENT OF BULK POWER SUPPLY POLICY

I. DEFINITIONS

(a) "Service Area" means those areas within the States of Wisconsin and Michigan and any other adjacent State served now or in the future by Licensee and areas proximate thereto.

(b) "Bulk Power" means electric capacity and any attendant energy supplied or made available at transmission or subtransmission voltage by one electric utility to another.

(c) "Licensee" means Wisconsin Public Service Corporation, any successor corporation of the above, or any assignee(s) of its interest in this license.

(d) "Neighboring Entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or any lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation or transmission of electricity for Bulk Power supply which meets each of the following criteria: (1) Its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) its existing or proposed facilities are fully or partially within the Service Area, and (3) with the exception of municipalities, electric cooperatives, governmental agencies or authorities, or lawful associations of any of the foregoing, it is, or upon commencement of operations will be, a public utility subject to regulation as to rates and services under state laws or under the Federal Power Act.

(e) "Neighboring distribution system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, engaging, or in good faith proposing to engage, in the distribution of electric power at retail which meets each of the criteria numbered (1) through (3) in subparagraph (d) above.

(f) "Electric system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation, transmission or distribution of electricity whose facilities are not within the Service Area and which meets the criteria specified in (3) of subparagraph (d) above.

(g) "Cost" means any administrative, general, and capital costs, operating and maintenance expenses, and reasonable return on investment which are properly allocable to the particular transaction.

(h) "Good operating practice" refers to those practices, methods, or acts that would be expected to provide at the lowest reasonable cost the reliability and safety required under the circumstances by the exercise of reasonable judgment in the light of the current state of technology, provided such practices, methods, or acts are not unreasonably restrictive.

II. INTERCONNECTIONS

(a) Licensee will interconnect and will operate in parallel in accordance with Good

Operating Practice with any Neighboring Entity and will interconnect with any Neighboring Distribution System.

(b) Interconnections will not be limited to lower voltages when higher voltages are requested and available.

(c) Interconnection arrangements shall provide for the necessary facilities, operating procedures and control equipment as required for safe and prudent operation of the interconnected systems in accordance with Good Operating Practice.

(d) The Cost of interconnection will be allocated on the basis of benefits derived from the interconnection by each party after consideration of the various transactions for which the interconnection facilities are to be utilized.

(e) Interconnection agreements will not embody provisions which impose limitations upon the use or resale of capacity and energy sold or exchanged pursuant to the agreement except as may be necessary in accordance with Good Operating Practice.

(f) Interconnection agreements will not prohibit any party from entering into other interconnections or coordination agreements, but will include appropriate provisions to assure that (1) The party(ies) receives adequate notice of such additional interconnection or coordination arrangement, and (2) the parties will jointly consider and agree upon such measures, if any, as are reasonably necessary in accordance with Good Operating Practice.

III. RESERVE COORDINATION

(a) Licensee and the Neighboring Entities with which it interconnects shall jointly establish a level of minimum reserves to be provided as necessary to maintain a total reserve margin sufficient to provide reliability of power supply to the interconnected systems of the parties. Unless otherwise mutually agreed upon, the level of minimum reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage; provided, if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangement, then the other party shall be required to carry, or provide for, as its reserves the full amount of kilowatts of such increase.

(b) Licensee will sell emergency power to any Neighboring Entity which maintains the level of minimum reserve established in paragraph (a) above and agrees to sell emergency power to Licensee. Licensee shall engage in such transactions if and when capacity and energy for such transactions are available from its own generating resources, from a Neighboring Entity(ies), or from interconnected Electric Systems, but only to the extent that it can do so without impairing service to Licensee's customers. Emergency power shall be furnished to the fullest extent available from the supplying party and desired by the party in need and at rates which compensate the seller for its Cost.

(c) Licensee and the Neighboring Entities with which it interconnects shall jointly establish a level of minimum ready (operating) reserves. Unless otherwise mutually agreed upon, the level of minimum ready (operating) reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage, provided, that if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangements then the other

party shall be required to carry, or provide for, as its ready (operating) reserves the full amount of kilowatts of such increases. However, in no circumstances shall a party's ready (operating) reserve requirement exceed its level of minimum reserves established in paragraph (a) above.

(d) When Licensee has generating capacity in excess of the amount called for by its own reserve criteria, it will offer, on terms which enable Licensee to recover its Costs, any such excess to a Neighboring Entity to meet such Entity's own reserve requirements if the Neighboring Entity is willing to do likewise for Licensee when circumstances allow.

(e) Licensee and the Neighboring Entities, who request to do so, shall prepare joint maintenance schedules and shall make sales of maintenance power and energy when it is reasonable to do so in accordance with Good Operating Practice.

IV. OTHER POWER EXCHANGES

Licensee currently has on file, and may hereafter file, with the Federal Power Commission rate schedules and/or contracts with other electric utility systems providing for the sale and purchase of short-term capacity and energy, limited term capacity and energy, long term capacity and energy, economy energy, and other forms of capacity and energy. Licensee will, on a fair and equitable basis, enter into contracts with any Neighboring Entity providing for the same or like capacity and energy transactions. In order to facilitate the making of such transactions, Licensee will respond promptly to inquiries of Neighboring Entities concerning the availability of all such forms of capacity and energy from its system. Such transactions will be on terms which will enable Licensee to recover its Cost.

V. WHOLESALE POWER SALES

(a) Licensee will sell Bulk Power to any Neighboring Distribution System in accordance with rates, terms and conditions which compensate the Licensee for its Cost, and which do not restrict use or resale except as may be necessary in accordance with Good Operating Practice. Such sales shall be for full or for partial requirements as requested by the Neighboring Distribution System. Such sales shall not be made subject to any condition which would prohibit, restrict or in any manner impede the Neighboring Distribution System from providing service to any type of, class of, or specific electrical user. Licensee shall not be required to make any such sale if it does not have available sufficient generation or transmission to provide the requested service or if such sale would impair its ability to render adequate service to its customers.

(b) Licensee shall, upon request of a Neighboring Entity(ies) and/or Neighboring Distribution System(s), file with the appropriate regulatory authority an appropriate rate schedule(s) for sales requested pursuant to this Section V, provided no such rate schedule is currently effective.

VI. TRANSMISSION SERVICES

(a) Licensee will provide transmission service for Bulk Power transactions between or among two or more Neighboring Entities or a Neighboring Entity(ies) and Neighboring Distribution System(s) with whom Licensee is now, or in the future, interconnected. Licensee will also provide transmission services for Bulk Power transactions between any Neighboring Entity(ies) or Neighboring Distribution System(s) and other Electric System(s) between whose facilities Licensee's transmission lines and the lines of others form a continuous electrical path, provided Licensee shall not be responsible

for procuring permission of such other parties for use of such parties' transmission lines. Licensee will provide such transmission services if such services can reasonably be accommodated from a technical standpoint without impairing Licensee's system reliability or its own use of its facilities in a manner consistent with Good Operating Practice.

(b) Licensee shall include in its planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraph (a) of this section VI, provided the Neighboring Entity(ies) or Neighboring Distribution System(s) gives Licensee sufficient advance notice as may be necessary to accommodate the requesting party's requirements from a technical standpoint and such Neighboring Entity(ies) or such Neighboring Distribution System(s) compensates Licensee for its Cost. Licensee shall not be required to construct transmission facilities (1) if such facilities would not be in accord with Good Operating Practice, (2) if such facilities will be of no demonstrable present or future benefit to Licensee, (3) if such facilities could be constructed by the requesting party without duplicating any portion of Licensee's transmission system, or (4) if construction of such facilities would jeopardize Licensee's ability to finance on reasonable terms, facilities to meet its anticipated system requirements.

(c) Consistent with Paragraphs (a) and (b) of this Section VI, Licensee shall provide transmission services for transporting power from the Koshkonong Nuclear Power Plant or from any future nuclear generating unit(s) which Licensee may own or operate for the life of this license, or any renewal thereof, to any Neighboring Entity participating therein pursuant to the requirements of Section VII.

(d) Nothing herein shall require Licensee to provide transmission services for a retail customer.

(e) Licensee shall, upon request of a Neighboring Entity(ies) and/or Neighboring Distribution System(s), file with the appropriate regulatory authority an appropriate rate schedule for the required transmission service so requested, provided no such rate schedule is currently effective.

VII. ACCESS TO NUCLEAR GENERATION

(a) When a Neighboring Entity(ies) or a Neighboring Distribution System(s) makes a timely request to Licensee for participation in the ownership of a portion of, or (if the requesting party so elects) by the purchase of a portion of the output of, Koshkonong Nuclear Power Plant and any future nuclear generating unit(s) which Licensee may hereafter own or operate, severally or jointly, during the life of this license, or any renewal thereof, Licensee will afford to the requesting party the opportunity to so participate on a basis that will compensate Licensee for its Cost incurred and to be incurred. The request shall be deemed timely with respect to Koshkonong Nuclear Power Plant, Unit 1, if received by July 1, 1975, and Unit 2, if received by January 1, 1976. With respect to any future nuclear generating unit(s), the request shall be deemed timely if received within 180 days after the formal announcement of the intention to construct such unit.

(b) Any Neighboring Entity(ies) or Neighboring Distribution System(s) making a timely request for participation must enter into an executory agreement to assume financial responsibility for such participation in the unit(s) and the associated transmission facilities. Such an agreement shall be entered into within one year after Licensee shall have provided to each requesting party

the financial and technical data which is specified by the Regulatory Staff of the Nuclear Regulatory Commission as being sufficient to enable such party to make a feasibility study as to participation. The requesting party shall pay to Licensee the additional expenses incurred by Licensee in making such financial and technical data available.

VIII. EFFECTUATION

(a) Licensee shall use its best efforts to amend any outstanding contract to which it is a party that contains provisions which are inconsistent with the terms of sections II through VII hereof.

(b) With respect to any initial rate schedule (including an initial contract submission) associated with the commitments herein which Licensee files with any such regulatory agency having jurisdiction, Licensee shall include a provision that (1) if within thirty (30) days after such filing by the Licensee a protest or complaint with respect thereto is filed with such regulatory agency, and (2) if the submitted rates become effective prior to the resolution of any contested issues set forth in such protest or complaint, and (3) if such submitted rates are thereafter changed in accordance with regulatory proceedings and findings, then, within sixty (60) days after issuance of a final and nonappealable order effecting such change, the Licensee shall make appropriate refunds (including interest) to retroactively reflect such changes.

(c) Licensee affirms that it does not, and will not have agreement(s) or understanding(s) requiring it to obtain consents from the other companies (or subsidiaries thereof) applying for this license to enable such Licensee to carry out its obligations hereunder or to enable the Neighboring Entity(ies) or Neighboring Distribution System(s) to enjoy their rights hereunder.

IX. REGULATORY COMMISSION JURISDICTION

The foregoing is to be implemented and applied in a manner consistent with Federal, state, and local laws, regulations and orders. All rates, charges, terms and practices are and will be subject to the acceptance and/or approval of any regulatory agencies or courts having jurisdiction over them.

MADISON GAS AND ELECTRIC CO.

FEBRUARY 7, 1975.

We understand that in the course of your review of the joint application to construct the Koshkonong Nuclear Power Plant, Units 1 and 2, certain antitrust questions relating to the bulk power supply policies of certain of the applicants have been raised. Insofar as Madison Gas and Electric Company (MG&E) is concerned, we are confident that any such questions can be satisfactorily answered. MG&E believes that its policies and activities have been and are consistent with the antitrust laws. We have outlined these policies in meetings with the Department. We understand that if we are willing to have these policies of MG&E, which you consider relevant to your antitrust review, incorporated in the Nuclear Regulatory Commission (the NRC) license, as license conditions, this would enable the Department of Justice to advise the NRC that no antitrust hearing, with respect to MG&E, will be necessary. We are perfectly willing to do this.

Therefore we have enclosed with this letter a proposed Statement of Bulk Power Supply Policy (the Statement) of MG&E concerning bulk power supply arrangements with neighboring electric systems. MG&E agrees that this Statement may be included as a condition to the Construction Permits and Operating Licenses to be issued by the NRC with respect to these units.

The attached Statement is subject to the following understandings:

1. Nothing contained in the Statement or in this letter shall be construed as a waiver by MG&E of its right to contest the application of the Statement to a particular factual situation.

2. By the Statement, MG&E does not waive any rights that it may have to apply to any appropriate forum to seek such changes in the Statement as may at the time be appropriate in accordance with the then existing law and Good Industry Practice.

3. By the Statement or by operations in accordance therewith, MG&E does not intend and shall not become a common carrier.

4. Nothing in the Statement or in this letter shall be construed to affect in any manner the franchises or indeterminate permits of MG&E, or declaratory rulings or certificates of authority of the Wisconsin Public Service Commission pertaining to MG&E.

5. MG&E reserves all rights and protection as may be afforded to it by law with respect to any and all distribution and/or sale of retail electric service in the area in which it renders electric service.

6. The Statement is not intended to preclude MG&E and a Neighboring Entity from reaching an agreement not covered which extends or supplements the provisions of the Statement in a manner not inconsistent with the broad purposes expressed therein and applicable law.

7. The Statement shall not affect any right MG&E may have to receive compensation for any electric facilities it voluntarily sells or is legally required to sell or relinquish.

In making the Statement, it is recognized that arrangements to effectuate it will involve planning by the parties and should be reciprocal as nearly as may be although it is recognized that in any particular arrangement the benefits may not be equal or identical for each party. The policies therein expressed cannot be implemented unilaterally. If an arrangement between or among the parties is to be successful and is to operate in the public interest, it must be negotiated and performed in good faith and with full cooperation by the parties to such arrangement. No party should capriciously reject a proposal submitted by another party and should give reasonable consideration to proposals made by each other and should afford similar opportunities on similar terms to each other.

STATEMENT OF BULK POWER SUPPLY POLICY

I. DEFINITIONS

(a) "Service area" means Dane County, Wisconsin, and counties adjacent thereto within the State of Wisconsin.

(b) "Bulk power" means electric capacity and any attendant energy supplied or made available at transmission or subtransmission voltage by one electric utility to another.

(c) "Licensee" means Madison Gas and Electric Company, any successor corporation, or any assignee of its interest in this license.

(d) "Neighboring entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or any lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation or transmission of electricity for Bulk Power supply which meets each of the following criteria: (1) its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) its existing or proposed facilities are fully or partially within the Service Area, and (3) with the

exception of municipalities, electric cooperatives, governmental agencies or authorities, or lawful association of any of the foregoing, it is, or upon commencement of operations will be a public utility under state laws or under the Federal Power Act.

(e) "Neighboring distribution system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, engaging, or in good faith proposing to engage in the distribution of electric power to consumers at retail which meets each of the criteria numbered (1) through (3) in subparagraph (d) above.

(f) "Electric system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, owning, contractually controlling, or operating or in good faith proposing to own, contractually control, or operate, facilities for the generation or transmission of Bulk Power or distribution of electric power to consumers at retail whose facilities are not within the service area and which meets the criterion numbered (3) in subparagraph (d) above.

(g) "Cost" means any administrative, general, and capital costs, operating and maintenance expenses, and reasonable return on investment which are properly allocable to the particular transaction.

(h) "Good operating practice" means those practices, methods or acts that would be expected to provide, at the lowest reasonable cost, the reliability and safety required under the circumstances by the exercise of reasonable judgment in the light of the then current state of technology provided such practices, methods or acts are not unreasonably restrictive.

II. INTERCONNECTIONS

(a) Licensee will interconnect and operate in parallel with any Neighboring Entity and will interconnect with any Neighboring Distribution System.

(b) Interconnections pursuant to this license will not be limited to lower voltages when higher voltages are requested and available.

(c) Interconnection arrangements shall provide for the necessary facilities, operating procedures and control equipment as required by Good Operating Practice.

(d) The Cost of interconnection will be allocated on the basis of benefits derived from the interconnection by each party after consideration of the various transactions for which the interconnection facilities are to be utilized.

(e) Interconnection agreements will not embody provisions which impose limitations upon the use or resale of capacity and energy sold or exchanged pursuant to the agreement except as may be necessary in accordance with Good Operating Practice.

(f) Interconnection agreements will not prohibit any party from entering into other interconnections or coordination agreements, but will include appropriate provisions to assure that (1) such party(ies) receives adequate notice of such additional interconnection or coordination arrangement, and (2) such parties will jointly consider and agree upon such measures, if any, as are reasonably necessary in accordance with Good Operating Practice.

III. RESERVE COORDINATION

(a) Licensee and the Neighboring Entities with which it interconnects shall from time to time jointly establish a level of minimum reserves to be provided as necessary to maintain a total reserve margin sufficient to provide

reliability of power supply to the interconnected systems of the parties. Unless otherwise mutually agreed upon, the level of minimum reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage, provided that, if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangements, then the other party shall be required to carry or provide for, as its reserves, the full amount of kilowatts of such increase.

(b) Licensee will sell emergency power to any Neighboring Entity which maintains the level of minimum reserve established in the paragraph (a) above and agrees to sell emergency power to Licensee. Licensee shall engage in such transactions if and when capacity and energy for such transactions are available from its own generating resources, from a Neighboring Entity(ies), or from interconnected Electric Systems, but only to the extent that it can do so without impairing service to Licensee's customers. Emergency power shall be furnished to the fullest extent available from the supplying party and desired by the party in need and at rates which compensate the seller for its Cost.

(c) Licensee and the Neighboring Entities with which it interconnects shall jointly establish a level of minimum ready reserves. Unless otherwise mutually agreed upon, the level of minimum ready reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage, provided, that if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangements then the other party shall be required to carry or provide for, as its ready reserves, the full amount of kilowatts of such increases. However, in no circumstances shall a party's ready reserve requirement exceed its level of minimum reserves established in paragraph (a) above.

(d) When Licensee has generating capacity in excess of the amount called for by its own reserve criteria, it will offer, on terms which enable Licensee to recover its Cost, any such excess to a Neighboring Entity to meet such entity's own reserve requirements if the Neighboring Entity is willing to do likewise for Licensee when circumstances allow.

(e) Licensee and any Neighboring Entity(ies), upon the request of either party to do so, shall prepare joint maintenance schedules and shall make sales of maintenance energy when it is reasonable to do so in accordance with Good Operating Practice.

IV. OTHER POWER EXCHANGES

Licensee will sell Bulk Power to any Neighboring Entity hereafter file, with the Federal Power Commission rate schedules and/or contracts with Neighboring Entities providing for the sale and purchase of short-term capacity and energy, economy energy, emergency energy, general purpose energy and other forms of surplus capacity and energy. Licensee will, on a fair and equitable basis, enter into contracts with any Neighboring Entity providing for the same or like capacity and energy transactions. In order to facilitate the making of such transaction, Licensee will respond promptly to inquiries of Neighboring Entities concerning the availability of all such forms of capacity and energy from its system. Each transaction will be on terms which will enable Licensee to recover its Cost.

V. WHOLESALE POWER SALES

Licensee will sell Bulk Power to any Neighboring Distribution System in accordance with rates, terms and conditions which compensate the Licensee for its Cost, and which do not restrict use or resale. Such sales shall be for full or for partial requirements as requested by the Neighboring Distribution System. Licensee shall not be required to make any such sale if it does not have available sufficient generation or transmission or interconnection capability, subject to the provisions of Section II above, to provide the requested service in accordance with Good Operating Practice.

VI. TRANSMISSION SERVICES

(a) Licensee will provide transmission service for Bulk Power transactions between or among two or more Neighboring Entities or a Neighboring Entity (ies) and Neighboring Distribution System(s) with whom Licensee is now, or in the future, interconnected. Licensee will also provide transmission services for Bulk Power transactions between any Neighboring Entity(ies) or Neighboring Distribution System(s) and any other Electric System(s) between whose facilities Licensee's transmission lines and the lines of others form a continuous electrical path provided Licensee shall not be responsible for procuring permission of such other Electric System(s) for use of that system's transmission lines. Licensee will provide such transmission services if and for so long as such services can reasonably be accommodated from a technical standpoint without impairing Licensee's reliability or its own use of its facilities in a manner consistent with Good Operating Practice.

(b) Licensee shall include in its planning and construction programs sufficient transmission capacity as required for the transactions referred to in Paragraph (a) of this section VI, provided the Neighboring Entity(ies) or Neighboring Distribution System(s) gives Licensee sufficient advance commitment as may be necessary to accommodate the requesting party's requirements from a technical standpoint and such Neighboring Entity(ies) or such Neighboring Distribution System(s) compensate Licensee for its Cost. Licensee shall not be required to construct transmission facilities (1) if such facilities would not be in accord with Good Operating Practice, (2) if such facilities will be of no demonstrable present or future benefit to Licensee, (3) if such facilities could be constructed by the requesting party without duplicating any portion of Licensee's transmission system, or (4) if construction of such facilities would jeopardize Licensee's ability to finance on reasonable terms facilities to meet anticipated system requirements.

(c) Consistent with paragraphs (a) and (b) of this section VI, Licensee shall provide transmission services for transporting Bulk Power from the Koshkonong Nuclear Power Plant or from any future nuclear generating unit(s) which Licensee may own or operate during the term of this license or any renewal thereof to any Neighboring Entity participating therein pursuant to the requirements of Section VII.

(d) Nothing herein shall require Licensee to provide transmission facilities or services for a retail customer.

(e) Licensee shall file any agreements providing for transmission services with the appropriate regulatory authority.

VII. ACCESS TO NUCLEAR GENERATION

(a) When a Neighboring Entity(ies) or a Neighboring Distribution System(s) makes a timely request to Licensee for participation by the ownership of a portion of, or (if the requesting party so elects) by the purchase

of a portion of the output of, the Koshkonong Nuclear Generating Plant or any future nuclear generating unit(s) which Licensee may hereafter own or operate, severally or jointly, during the life of this license, or any renewal thereof, Licensee will afford to the requesting party the opportunity to so participate on a basis that will compensate Licensee for its Cost incurred and to be incurred. The request shall be deemed timely with respect to Koshkonong Nuclear Power Plant, Unit 1, if received by July 1, 1975, and Unit 2, if received by January 1, 1976. With respect to any future nuclear generating unit(s), the request shall be deemed timely if received within 180 days after the formal announcement of the intention to construct such unit(s).

(b) Any Neighboring Entity or any Neighboring Distribution System making a timely request for participation must enter into an executory agreement to assume financial responsibility for participation in the unit(s) and the associated transmission facilities. Such agreement must be entered into within one year after Licensee shall have provided to each requesting party the financial and technical data which is specified by the Regulatory Staff of the Nuclear Regulatory Commission to be sufficient to enable such party to make a feasibility study as to participation. The requesting party shall pay to Licensee the additional expenses incurred by Licensee in making such financial and technical data available.

VIII. IMPLEMENTATION

(a) The foregoing is to be implemented and applied in a manner consistent with Federal, state, and local laws, regulations, rulings and orders. All rates, charges, terms and practices are and will be subject to the acceptance and/or approval of any regulatory agencies or courts having jurisdiction over them.

(b) Licensee affirms that it does not and will not have agreement(s) or understanding(s) requiring it to obtain consents from the other companies or subsidiaries thereof applying for this license to enable such Licensee to carry out its obligations hereunder or to enable the Neighboring Entity(ies) or Neighboring Distribution System(s) to enjoy their rights hereunder.

(c) Nothing contained herein shall enlarge any rights of a Neighboring Entity, Neighboring Distribution System or Electric System to provide services to retail customers of Licensee beyond the rights they have under state or federal law.

WISCONSIN ELECTRIC POWER CO.

FEBRUARY 7, 1975.

Attached to this letter is a Statement of Bulk Power Supply Policy which sets forth the policies that will be applicable to Wisconsin Electric Power Company's ("Wepco") and Wisconsin Michigan Power Company's bulk power dealings with other electric power utilities. We have discussed this Statement of Policy with the Staff of the Department of Justice and the Staff of the Nuclear Regulatory Commission in connection with the antitrust review in the application for a construction permit and operating license to be issued by the Nuclear Regulatory Commission in the above-referenced proceedings.

You have indicated that if Wepco is willing to have the above-referenced Statement of Bulk Power Supply Policy and the commitments contained therein incorporated in the Nuclear Regulatory Commission permit and license, this would enable the Department of Justice to advise the Nuclear Regulatory Commission that no antitrust hearing with reference to Wepco will be necessary. We are willing to have this done based on the following understandings:

(1) Nothing in the Statement of Bulk Power Supply Policy or in this letter shall be construed as a waiver by Wepco or Wisconsin Michigan Power Company of its rights to contest the application of any commitment therein to a particular factual situation.

(2) By the Statement of Bulk Power Supply Policy, neither Wepco nor Wisconsin Michigan Power Company waives any rights that it may have to apply to any appropriate forum to seek such changes in the Statement of Bulk Power Supply Policy as may, at the time be appropriate in accordance with the then existing law and good operating practice.

(3) By the Statement of Bulk Power Supply Policy or by operations in accordance therewith, neither Wepco nor Wisconsin Michigan Power Company intends to become, and neither shall become, a common carrier.

(4) Nothing in the Statement of Bulk Power Supply Policy or in this letter shall be construed to affect in any manner the franchises, indeterminate permits or certificates of authority of Wepco or Wisconsin Michigan Power Company, or declaratory rulings or certificates of authority of the Wisconsin Public Service Commission or the Michigan Public Service Commission pertaining to Wepco or to Wisconsin Michigan Power Company.

STATEMENT OF BULK POWER SUPPLY POLICY

I. DEFINITIONS

(a) "Service area" means those areas within the States of Wisconsin and Michigan and any other adjacent State served now or in the future by Licensee and areas proximate thereto.

(b) "Bulk power" means electric capacity and any attendant energy supplied or made available at transmission or subtransmission voltage by one electric utility to another.

(c) "Licensee" means Wisconsin Electric Power Company and, solely for the purpose of these conditions, its subsidiary Wisconsin Michigan Power Company, any successor corporation of the above, or any assignee(s) of its interest in this license.

(d) "Neighboring entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or any lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation or transmission of electricity for Bulk Power supply which meets each of the following criteria: (1) its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) its existing or proposed facilities are fully or partially within the Service Area, and (3) with the exception of municipalities, electric cooperatives, governmental agencies or authorities, or lawful associations of any of the foregoing, it is, or upon commencement of operations will be, a public utility subject to regulation as to rates and services under state laws or under the Federal Power Act.

(e) "Neighboring distribution system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, engaging, or in good faith proposing to engage, in the distribution of electric power at retail which meets each of the criteria numbered (1) through (3) in subparagraph (d) above.

(f) "Electric system" means a financially responsible private or public corporation, governmental agency or authority, municipality, electric cooperative, or lawful association of any of the foregoing, owning, con-

tractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation, transmission or distribution of electricity whose facilities are not within the Service Area and which meets the criteria specified in (3) of subparagraph (d) above.

(g) "Cost" means any administrative, general, and capital costs, operating and maintenance expenses, and reasonable return on investment which are properly allocable to the particular transaction.

(h) "Good operating practice" refers to those practices, methods, or acts that would be expected to provide at the lowest reasonable cost the reliability and safety required under the circumstances by the exercise of reasonable judgment in the light of the current state of technology, provided such practices, methods, or acts are not unreasonably restrictive.

II. INTERCONNECTIONS

(a) Licensee will interconnect and will operate in parallel in accordance with Good Operating Practice with any Neighboring Entity and will interconnect with any Neighboring Distribution System.

(b) Interconnections will not be limited to lower voltages when higher voltages are requested and available.

(c) Interconnection arrangements shall provide for the necessary facilities, operating procedures and control equipment as required for safe and prudent operation of the interconnected systems in accordance with Good Operating Practice.

(d) The Cost of interconnection will be allocated on the basis of benefits derived from the interconnection by each party after consideration of the various transactions for which the interconnection facilities are to be utilized.

(e) Interconnection agreements will not embody provisions which impose limitations upon the use or resale of capacity and energy sold or exchanged pursuant to the agreement except as may be necessary in accordance with Good Operating Practice.

(f) Interconnection agreements will not prohibit any party from entering into other interconnections or coordination agreements, but will include appropriate provisions to assure that (1) the party(ies) receives adequate notice of such additional interconnection or coordination arrangement, and (2) the parties will jointly consider and agree upon such measures, if any, as are reasonably necessary in accordance with Good Operating Practice.

III. RESERVE COORDINATION

(a) Licensee and the Neighboring Entities with which it interconnects shall jointly establish a level of minimum reserves to be provided as necessary to maintain a total reserve margin sufficient to provide reliability of power supply to the interconnected systems of the parties. Unless otherwise mutually agreed upon, the level of minimum reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage; provided, if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangement, then the other party shall be required to carry, or provide for, as its reserves the full amount of kilowatts of such increase.

(b) Licensee will sell emergency power to any Neighboring Entity which maintains the level of minimum reserve established in paragraph (a) above and agrees to sell emergency power to Licensee. Licensee shall engage in such transactions if and when capacity and energy for such transactions are

available from its own generating resources, from a Neighboring Entity(ies), or from interconnected Electric Systems, but only to the extent that it can do so without impairing service to Licensee's customers. Emergency power shall be furnished to the fullest extent available from the supplying party and desired by the party in need and at rates which compensate the seller for its Cost.

(c) Licensee and the Neighboring Entities with which it interconnects shall jointly establish a level of minimum ready (operating) reserves. Unless otherwise mutually agreed upon, the level of minimum ready (operating) reserves thus determined shall be calculated as a percentage of estimated annual peak load (including sales of firm power) adjusted to exclude purchases of firm power. No party to the interconnection shall be required to maintain more than such percentage, provided, that if such percentage is increased over the amount that Licensee would be required to maintain without such interconnection arrangements then the other party shall be required to carry, or provide for, as its ready (operating) reserves the full amount of kilowatts of such increases. However, in no circumstances shall a party's ready (operating) reserve requirement exceed its level of minimum reserves established in paragraph (a) above.

(d) When Licensee has generating capacity in excess of the amount called for by its own reserve criteria, it will offer, on terms which enable Licensee to recover its Costs, any such excess to a Neighboring Entity to meet such Entity's own reserve requirements if the Neighboring Entity is willing to do likewise for Licensee when circumstances allow.

(e) Licensee and the Neighboring Entities, who request to do so, shall prepare joint maintenance schedules and shall make sales of maintenance power and energy when it is reasonable to do so in accordance with Good Operating Practice.

IV. OTHER POWER EXCHANGES

Licensee currently has on file, and may hereafter file, with the Federal Power Commission rate schedules and/or contracts with other electric utility systems providing for the sale and purchase of short-term capacity and energy, limited term capacity and energy, long term capacity and energy, economy energy, and other forms of capacity and energy. Licensee will, on a fair and equitable basis, enter into contracts with any Neighboring Entity providing for the same or like capacity and energy transactions. In order to facilitate the making of such transactions, Licensee will respond promptly to inquiries of Neighboring Entities concerning the availability of all such forms of capacity and energy from its system. Such transactions will be on terms which will enable Licensee to recover its Cost.

V. WHOLESALE POWER SALES

(a) Licensee will sell Bulk Power to any Neighboring Distribution System in accordance with rates, terms and conditions which compensate the Licensee for its Cost, and which do not restrict use or resale except as may be necessary in accordance with Good Operating Practice. Such sales shall be for full or for partial requirements as requested by the Neighboring Distribution System. Such sales shall not be made subject to any condition which would prohibit, restrict or in any manner impede the Neighboring Distribution System from providing service to any type of, class of, or specific electrical user. Licensee shall not be required to make any such sale if it does not have available sufficient generation or transmission to provide the requested service or if such sale would impair its ability to render adequate service to its customers.

(b) Licensee shall, upon request of a Neighboring Entity(ies) and/or Neighboring Distribution System(s), file with the appropriate regulatory authority an appropriate rate schedule(s) for sales requested pursuant to this section V, provided no such rate schedule is currently effective.

VI. TRANSMISSION SERVICES

(a) Licensee will provide transmission service for Bulk Power transactions between or among two or more Neighboring Entities or a Neighboring Entity(ies) and Neighboring Distribution System(s) with whom Licensee is now, or in the future, interconnected. Licensee will also provide transmission services for Bulk Power transactions between any Neighboring Entity(ies) or Neighboring Distribution System(s) and other Electric System(s) between whose facilities Licensee's transmission lines and the lines of others form a continuous electrical path, provided Licensee shall not be responsible for procuring permission of such other parties for use of such parties' transmission lines. Licensee will provide such transmission services if such services can reasonably be accommodated from a technical standpoint without impairing Licensee's system reliability or its own use of its facilities in a manner consistent with Good Operating Practice.

(b) Licensee shall include in its planning and construction programs sufficient transmission capacity as required for the transactions referred to in Paragraph (a) of this section VI, provided the Neighboring Entity(ies) or Neighboring Distribution System(s) gives Licensee sufficient advance notice as may be necessary to accommodate the requesting party's requirements from a technical standpoint and such Neighboring Entity(ies) or such Neighboring Distribution System(s) compensates Licensee for its Cost. Licensee shall not be required to construct transmission facilities (1) if such facilities would not be in accord with Good Operating Practice, (2) if such facilities will be of no demonstrable present or future benefit to Licensee, (3) if such facilities could be constructed by the requesting party without duplicating any portion of Licensee's transmission system, or (4) if construction of such facilities would jeopardize Licensee's ability to finance on reasonable terms, facilities to meet its anticipated system requirements.

(c) Consistent with Paragraphs (a) and (b) of this Section VI, Licensee shall provide transmission services for transporting power from the Koshkonong Nuclear Power Plant or from any future nuclear generating unit(s) which Licensee may own or operate for the life of this license, or any renewal thereof, to any Neighboring Entity participating therein pursuant to the requirements of Section VII.

(d) Nothing herein shall require Licensee to provide transmission services for a retail customer.

(e) Licensee shall, upon request of a Neighboring Entity(ies) and/or Neighboring Distribution System(s), file with the appropriate regulatory authority an appropriate rate schedule for the required transmission service so requested, provided no such rate schedule is currently effective.

VII. ACCESS TO NUCLEAR GENERATION

(a) When a Neighboring Entity(ies) or a Neighboring Distribution System(s) makes a timely request to Licensee for participation in the ownership of a portion of, or (if the requesting party so elects) by the purchase of a portion of the output of, Koshkonong Nuclear Power Plant and any future nuclear generating Unit(s) which Licensee may hereafter own or operate, severally or jointly, during the life

of this license, or any renewal thereof, Licensee will afford to the requesting party the opportunity to so participate on a basis that will compensate Licensee for its Cost incurred and to be incurred. The request shall be deemed timely with respect to Koshkonong Nuclear Power Plant, Unit 1, if received by July 1, 1975, and Unit 2, if received by January 1, 1976. With respect to any future nuclear generating unit(s), the request shall be deemed timely if received within 180 days after the formal announcement of the intention to construct such unit.

(b) Any Neighboring Entity(ies) or Neighboring Distribution System(s) making a timely request for participation must enter into an executory agreement to assume financial responsibility for such participation in the unit(s) and the associated transmission facilities. Such an agreement shall be entered into within one year after Licensee shall have provided to each requesting party the financial and technical data which is specified by the Regulatory Staff of the Nuclear Regulatory Commission as being sufficient to enable such party to make a feasibility study as to participation. The requesting party shall pay to Licensee the additional expenses incurred by Licensee in making such financial and technical data available.

VIII. EFFECTUATION

(a) Licensee shall use its best efforts to amend any outstanding contract to which it is a party that contains provisions which are inconsistent with the terms of sections II through VII hereof.

(b) With respect to any initial rate schedule (including an initial contract submission) associated with the commitments herein which Licensee files with any such regulatory agency having jurisdiction, Licensee shall include a provision that (1) if within thirty (30) days after such filing by the Licensee a protest or complaint with respect thereto is filed with such regulatory agency, and (2) if the submitted rates become effective prior to the resolution of any contested issues set forth in such protest or complaint, and (3) if such submitted rates are thereafter changed in accordance with regulatory proceedings and findings, then, within sixty (60) days after issuance of a final and nonappealable order effecting such change, the Licensee shall make appropriate refunds (including interest) to retroactively reflect such changes.

(c) Licensee affirms that it does not, and will not have agreement(s) or understanding(s) requiring it to obtain consents from the other companies applying for this license to enable such Licensee to carry out its obligations hereunder or to enable the Neighboring Entity(ies) or Neighboring Distribution System(s) to enjoy their rights hereunder.

IX. REGULATORY COMMISSION JURISDICTION

The foregoing is to be implemented and applied in a manner consistent with Federal, state, and local laws, regulations and orders. All rates, charges, terms and practices are and will be subject to the acceptance and/or approval of any regulatory agencies or courts having jurisdiction over them.

[FR Doc.75-8149 Filed 4-1-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

LIST OF REQUESTS

Clearance of Reports

The following is a list of requests for clearance of reports intended for use in

collecting information from the public received by the Office of Management and Budget on March 28, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

- Graphic Design Supplemental Form, CSC 1233, on occasion, applicants for Federal employment, Caywood, D.P., 395-3443.
- Photographer Supplemental Form, CSC 1236, on occasion, applicants for Federal employment, Caywood, D.P., 395-3443.
- Illustrator Supplemental Form, CSC 1234, on occasion, applicants for Federal employment, Caywood, D.P., 395-3443.
- Graphic Design, Illustrator, Photographer Application Form, CSC 1235, on occasion, applicants for Federal employment, Caywood, D.P., 395-3443.
- Request for Change, DAX 6.25, on occasion, eligibles on CSC job registers, Caywood, D.P., 395-3443.
- Survey of IPA Mobility Participants and Supervisors, IP-23 and IP-23A, quarterly, individuals, Caywood, D.P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

- Office of Education, The Public Views Reading Crisis in America, OE-406, single-time, individuals, human resources division, 395-3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- Policy Development and Research, Uniform Disclosure/Settlement and Truth in Lending Statement, on occasion, lenders, community and veterans affairs division, 395-3532.
- Policy Development and Research, Contractor Baseline Schedule Plan, Contractor Schedule Status Report, PD&R-102 and PD&R-202, monthly, business firms, community and veterans affairs division, 395-3532.

REVISIONS

VETERANS ADMINISTRATION

- Report of Automatic Mobile Home Loan—Unit Only, 26-8149, on occasion, Lenders, Caywood, D.P., 395-3443.

DEPARTMENT OF COMMERCE

- Bureau of the Census, Birth Expectations and Fertility Supplement—June 1973 CPS, CPS-1, annually, 45,000 households in CPS sample, Hall, George, 395-4697.

DEPARTMENT OF LABOR

- Labor-Management and Service Administration, Petition, LMSA 60, on occasion, Fed-

eral labor organization representing Federal employee, Caywood, D.P., 395-3443.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of the Census, Application for Search of Census Records, BC 600, BC 649, and BC 658, on occasion, Evinger, S. K., 395-3648.

PHILLIP D. LARSEN,
Budget and Management
Officer.

[FR Doc.75-8708 Filed 4-1-75; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-5350]

OHIO POWER CO.

Filing of Post-Effective Amendment

MARCH 27, 1975.

Notice is hereby given that Ohio Power Company ("Ohio"), 301 Cleveland Avenue, SW., Canton, Ohio, 44701, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an eleventh post-effective amendment to the application previously filed in this matter, pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a) (5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the post-effective amendment to the application, which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 29, 1973, September 18, 1973, April 8, 1974, June 10, 1974, July 5, 1974, October 1, 1974, December 31, 1974, and March 10, 1975 (Holding Company Act Release Nos. 18018, 18100, 18367, 18444, 18482, 18585, 18744, and 18853), this Commission, among other things, authorized the issuance and sale of short-term notes by Ohio to 71 banks in an aggregate amount up to \$168,665,000 outstanding at any one time. At the time of said orders, the maximum amount of short-term indebtedness which Ohio could incur at any one time could not exceed \$215,000,000.

It is now proposed that Ohio incur short-term indebtedness in an aggregate amount not to exceed \$270,000,000. In no event would the borrowings by Ohio of short-term funds through the issuance and sale of notes to banks and commercial paper to dealers in commercial paper exceed the maximum amount allowable both under Ohio's Articles of Incorporation and the consent granted by Ohio's Cumulative Preferred stockholders permitting an increase in the amount of unsecured short term debt that Ohio could incur, which maximum amount as of December 31, 1974, was approximately \$274,000,000.

Each note payable to a bank to be issued by Ohio will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each note will bear interest no greater than the prime rate of commercial banks at the time of issuance or

in effect from time to time and will be prepayable at any time without premium or penalty. It is stated that Ohio will not pay any fees or charges to any of the banks in connection with the issuance and sale of such notes. Sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally between 15 and 20 percent, the effective interest cost to Ohio, based on a prime commercial rate of 7½ percent, would be 9.1 percent.

The commercial paper will be in the form of promissory notes in denominations of not less than \$50,000 nor more than \$5,000,000 and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes of Ohio will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that Ohio's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

The proceeds from the issuance and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the year 1975 is estimated to total \$180,000,000. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of Ohio will be retired by December 31, 1975, from internal cash resources, debt or equity financing, or cash capital contributions.

Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issuance and sale of its commercial paper pursuant to paragraph (a) (5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper. Ohio also requests authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 18,

1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.
[FR Doc.75-8508 Filed 4-1-75;8:45 am]

[File No. 3-4629; File No. 81-145]

RELiance WORLD TRADE COMPANY LTD.
Application and Opportunity for Hearing
MARCH 26, 1975.

Notice is hereby given that Reliance World Trade Company Ltd. (formerly Leasco World Trade Company Ltd.) ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for a finding that an exemption from the requirement to file reports pursuant to section 13 of the 1934 Act would not be inconsistent with the public interest or the protection of investors.

Section 12(b) of the 1934 Act provides that an issuer may register securities on a national exchange by filing a registration statement with both the exchange and the Securities and Exchange Commission (the "Commission") which registration statement contains information as to the issuer and any person directly or indirectly controlling or controlled by the issuer as the Commission may require for the protection of investors or in the public interest.

Section 13 of the 1934 Act requires that issuers of securities registered pursuant to section 12 must file certain periodic reports with the Commission for

the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration or periodic reporting provisions under sections 12 and 13, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states in part:

1. Applicant, a Delaware corporation, is a wholly-owned subsidiary of Reliance Group, Inc. ("Reliance"), a diversified financial services company with numerous subsidiaries. Applicant operates as an overseas financing vehicle for Reliance and its subsidiaries and affiliates.

2. In June 1968, Applicant issued \$20,000,000 principal amount of 5 percent Guaranteed Convertible Debentures due 1988 (the "Debentures").

3. The Debentures are convertible into shares of Reliance common stock and are unconditionally guaranteed as to payment of principal, premium (if any) and interest by Reliance.

4. The Debentures were offered abroad to foreign nationals in accordance with procedures designed to prevent the sale of the Debentures in the United States or its territories or to nationals or residents thereof.

5. The Debentures are listed on the American Stock Exchange and are registered pursuant to section 12(b) of the 1934 Act.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to section 13 of the 1934 Act because the Debentures are registered with both the American Stock Exchange and the Commission.

Accordingly, Applicant believes that the exemption order requested by it is appropriate in view of the fact that none of the securities of the Applicant (other than the Debentures) are or will be held by any person other than Reliance or a wholly-owned subsidiary of Reliance; that since the Debentures are guaranteed by and convertible into common stock of Reliance, it is the reports of Reliance filed pursuant to section 13 of the 1934 Act and not those of Applicant in which reasonable investors would be primarily interested; and since the Debentures were admitted to trading on the American Stock Exchange, no transactions in the Debentures on such exchange have occurred.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than April 21, 1975, may submit to the Commission in writing

his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549 and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.
[FR Doc.75-8509 Filed 4-1-75;8:45 am]

[File No. 812-3761]

TAX-EXEMPT SECURITIES TRUST (SERIES 1 AND SUBSEQUENT NATIONAL AND STATE SERIES)

Filing of Application

MARCH 27, 1975.

Notice is hereby given that Tax-Exempt Securities Trust (Series 1 and Subsequent National and State Series) ("Applicant"), c/o Harris, Upham & Co. Incorporated, 120 Broadway, New York, New York, 10005, a unit investment trust registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of exemption from the provisions of section 14(a) of the Act and Rules 19b-1 and 22c-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Loeb, Rhoades & Co. and/or Harris, Upham & Co., Incorporated will act as sponsors of the Applicant ("Sponsors"). The objective of each Series offered by the Applicant will be tax-exempt income for its unit holders through investment in long-term municipal bonds. Each Series of Applicant will be governed by a trust agreement ("Agreement") under which the Sponsors (or any succeeding sponsor or sponsors) will act as such, United States Trust Company of New York will act as trustee ("Trustee"), and Standard & Poor's Corporation will act as evaluator ("Evaluator"). Each Agreement will contain standard terms and conditions of trust common to all Series. Pursuant to each Agreement, the Sponsors will deposit with the Trustee in excess of \$3,000,000 principal amount of tax-free municipal bonds, including contracts and cash for the purchase of certain of such bonds ("Bonds"), and simultaneously the Trustee will deliver to the Sponsors registered certificates representing in excess of 3,000 units, which will represent the entire ownership of each Series. The units will then be offered for sale to the public by the Sponsors. All of the Bonds deposited with the

Trustee will be interest bearing obligations of states and territories of the United States and political sub-divisions and authorities thereof the interest on which is exempt from Federal income taxation under existing law. The Applicant represents that the Bonds will not be pledged or be in any other way subjected to any debt by the Applicant at any time after the Bonds are deposited with the Trustee.

On February 6, 1975, a registration statement on Form S-6 under the Securities Act of 1933 ("Securities Act") was filed for 18,000 units of undivided interest in Series 1 of Applicant. This registration statement has not yet become effective. On February 6, 1975, Applicant also filed a Notification of registration on Form N-8A for said Series and on the same date filed a registration statement on Form N-8B-2 under the Act for said Series.

Each Series of Applicant (Series 1 and Subsequent Series) will consist of Bonds, such Bonds as may continue to be held from time-to-time in exchange or substitution for any of the Bonds upon certain refunds, and accrued and undistributed interest and undistributed cash. Certain of the Bonds may from time-to-time be sold under the special circumstances set forth in the Agreement, or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to unit holders and not reinvested. There is no provision for the sale and reinvestment of the Bonds.

Each unit for a particular Series will represent a fractional undivided interest in that Series and will be redeemable. In the event that any unit shall be redeemed, the portion of the fractional undivided interest represented by each unit outstanding will be increased. Units will remain outstanding until redeemed or until the termination of the Agreement. The Agreement may be terminated by 100 percent agreement of the unitholders or, in the event that the value of the Bonds shall fall below an amount specified for each Series, upon the direction of the Sponsors to the Trustee, or by the Trustee without such direction, respectively.

Section 14(a). Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least \$100,000; (2) at the time of a previous public offering it had a net worth of \$100,000; or (3) provision is made that a net worth of \$100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicant seeks an exemption from the provisions of section 14(a) in order that it may make a public offering of units of each series as described above. Applicant represents that in connection with the requested exemption from sec-

tion 14(a), the Sponsors have agreed as follows: (A) To refund, on demand and without deduction, all sales charges paid by purchasers of units in the initial public offering of a series if, within 90 days from the time that the registration statement relating to such series becomes effective, either (i) the net worth of such series shall be reduced to less than \$100,000, or (ii) such trust shall have been terminated; (B) to instruct the Trustee on the date of deposit of each Series that in the event that redemption by the Sponsors of units constituting a part of the unsold units shall result in that series having a net worth of less than \$2,000,000, the Trustee shall terminate the Series in the manner provided in the Agreement and distribute any municipal bonds or other assets deposited with the Trustee pursuant to the Agreement as provided therein.

Rule 19b-1. Rule 19b-1(a) under the Act provides, in substance, that no registered investment company which is a "regulated investment company", as defined in section 851 of the Internal Revenue Code of 1954 ("Code"), shall make more than one distribution of capital gains in any one taxable year of such investment company. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gain distributions received from a "regulated investment company" within a reasonable time after receipt.

Applicant states that it proposes to make monthly distributions of principal and interest to unitholders of a Series and that distributions of principal constituting capital gains to unitholders may arise in two instances: (1) If an issuing authority calls or redeems an issue held in the portfolio, the sums received by Applicant will be distributed to unitholders on the next distribution date; and (2) If Bonds are sold in order to provide funds necessary to meet redemptions each unitholder will receive his pro rata portion of the proceeds from the Bonds sold. In such instances, a unitholder may receive in his distribution funds which constitute capital gains since the value of the portfolio Bonds redeemed or sold may have increased since the date of initial deposit.

As has been stated, Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gains received from a "regulated investment company" within a reasonable time after receipt. Applicant states that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate capital gains distributions received throughout the year as the result of acts of their portfolio investment companies. Applicant states that it too should not have to hold until the end of its taxable year any involuntarily realized capital gains. Applicant contends that retention of such involuntarily realized capital gains by Applicant until the end of its taxable year would clearly be to the detriment of the unitholders.

In support of the requested exemption, the Applicant states that the dangers against which Rule 19b-1 is intended to guard will not exist in connection with any Series of Applicant, since neither Applicant nor the Sponsors have control over the events which could trigger capital gains. Applicant seeks to make a combined distribution of principal (including capital gains) and interest each month, and states that any capital gains in such distribution will be clearly indicated as such in accompanying reports to unitholders. In addition, Applicant alleges that the amounts involved in a normal distribution of principal will be relatively small in comparison to the normal interest distribution.

Rule 22c-1. Applicant states that the Sponsors, while not obligated to do so, intend to maintain a market for the units following the initial public offering period by continuously offering to redemption prices. For purposes of the purchase units at prices in excess of re-secondary market transactions, an evaluation will be made by the Evaluator once each week. Evaluation will be made at the expense of the Applicant. Applicant contends that additional evaluations would be so costly as to significantly impair the interests of unitholders.

Applicant also states that the Sponsors have undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide the Sponsors with estimated evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsors will order, and the Applicant will pay for, a full evaluation which shall determine the repurchase price. In case of resale by the Sponsors, if the Evaluator cannot state that the previous Friday's price is no more than one-half point (\$5.00 per \$1,000.00 principal amount of underlying bonds) greater than the current offering price, a full evaluation will be ordered. Thus, Applicant contends that a unitholder wishing to sell his unit will not receive less from the Sponsors than he might have received from the Applicant upon redemption, and a purchaser of such units from the Sponsors will not pay more for a unit than approximately the current net asset value per unit.

Rule 22c-1 provides, in part, that redeemable securities of registered investment companies may not be sold, redeemed, or repurchased except at a price based on the current net asset value (computed on each day during which the New York Stock Exchange is open for trading not less frequently than once daily as of the time of the close of trading on such Exchange) which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicant states that the Rule has two purposes: (1) To eliminate or to reduce any dilution of the value of outstanding

redeemable securities of registered investment companies which might occur through the sale, redemption or repurchase of such securities at prices other than their current net asset values; and (2) to minimize speculative trading practices in the securities of registered investment companies.

The secondary market activities of Sponsors, which may buy units, and the manner for the acquisition by investors of new units, may be deemed to violate Rule 22c-1 because of the absence of daily pricing. Applicant argues, however, that the purposes of Rule 22c-1 will not be offended by the Sponsors' secondary market activities. Applicant asserts that the pricing of units by the Sponsors in the secondary market will in no way dilute the assets of Applicant, and that unitholders will benefit from the Sponsors' pricing procedure in the secondary market, since they will normally receive a higher repurchase price for their units than they could by redeeming their units at the current net asset value and that this will be accomplished without the cost burden to the Applicant of daily evaluations of the unit redemption value.

Applicant also contends that speculation in units of any Series is unlikely because price changes are limited in respect to the kind of bonds which will be held by such Series.

Applicant therefore requests an exemption from the provisions of Rule 22c-1 for Series 1 and for all subsequently created Series of Applicant insofar as the Rule may apply after completion of the primary distribution of units of such Series.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 22, 1975 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing), upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and

regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-8510 Filed 4-1-75; 8:45 am]

VETERANS ADMINISTRATION COOPERATIVE STUDIES EVALUATION COMMITTEE

Committee Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Cooperative Studies Evaluation Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning March 20, 1975 through March 20, 1977.

Dated: March 26, 1975.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.75-8517 Filed 4-1-75; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 733]

ASSIGNMENT OF HEARINGS

MARCH 28, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8436, Connecticut Limousine Service, Inc. v. Hyman Levine, d.b.a. Hy's Livery Service, now assigned April 21, 1975, at Hartford, Conn., will be held in Room 201, U.S. Post Office, 135 High Street.

MC 138875, Sub 21, Shoemaker Trucking Company, now assigned June 5, 1975, at Portland, Oregon, is cancelled and reassigned on June 5, 1975, at Boise, Idaho; in a hearing room to be designated later.

MC 56640, Sub 32, Delta Lines, Inc., now assigned April 14, 1975, at Carson City, Nevada, is cancelled and reassigned on April 14, 1975, at Reno, Nevada, at the Holiday Inn, 1000 E. 6th St.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8541 Filed 4-1-75; 8:45 am]

[No. 75-3450; Application No. 732]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Emergency Terminal Surcharge Tariff

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 27th day of March, 1975.

Upon consideration of the record in this proceeding including the petition filed by C. R. Sheets, Director of Marketing Services, Chicago, Rock Island and Pacific Railroad Company (Rock Island), the replies filed on or before March 24, 1975, and the views expressed at oral hearing before Division 2 on March 25, 1975:

It appearing, that the Rock Island requests authority under Section 6 of the Interstate Commerce Act to publish and file with this Commission a terminal surcharge tariff providing for application of \$30 per car and \$15 per trailer upon not less than five days' notice to the Commission and to the public which would accomplish the following:

Permit form of tariff publication for application of a \$30 per car and \$15 per trailer surcharge on traffic originating, terminating or originating and terminating on the Chicago, Rock Island and Pacific Railroad Company (Rock Island).

(a) On traffic both originating and terminating on the Rock Island, surcharge will be assessed against party making prepayment, or if shipment is collect, assessment will be against party paying collect bill.

(b) On traffic originating on the Rock Island and not terminating on the Rock Island, surcharge will be assessed against and due from origin shipper regardless of whether prepaid or collect.

(c) On traffic not originating on the Rock Island but terminating on the Rock Island, surcharge will be assessed against receiver regardless of whether prepaid or collect.

It further appearing, that the Rock Island seeks a grant of relief from all outstanding orders, and relief from the 4th Section of the Interstate Commerce Act.

It further appearing, that the Rock Island requests that the Commission consider permitting by order, under section 13 of the Interstate Commerce Act, a surcharge (the same as proposed on interstate traffic) on intrastate traffic to become effective concurrently with the interstate surcharge;

It further appearing, that at the oral hearing before Division 2, the representative for the Rock Island stated that the carrier intended to monitor the effect of the surcharge on a daily basis and proposes to cancel the surcharge should it prove self-defeating;

It further appearing, that applicant's representative testified that the Rock Island construes the proposed tariff, which bases the application of the surcharge on the term "traffic," to provide that on shipments receiving transit service the date controlling the application of the surcharge is the date the freight is billed and moves from the transit station

in each instance, not the bill of lading date of original shipment, which is contrary to the consistent holding of the Commission that only the date of original shipment may determine the application of charges for services to which the shipment is lawfully entitled and contracted for at time of original shipment, and that the tariff must be clear on this point;

It further appearing, that relief from outstanding orders and from the Commission's tariff publishing regulations [49 CFR 1300] is warranted in view of the severe financial situation facing the Rock Island;

And it further appearing, that consistent with the authority hereinafter granted it may be necessary to order an increase of Rock Island intrastate rates and to consider this matter a proceeding designated No. 36156, Chicago, Rock Island and Pacific Railroad Company—Emergency Terminal Surcharge Tariff (Intrastate Application is being instituted).

It is ordered, That the Rock Island, subject to the conditions hereinafter set forth be, and it is hereby, authorized to depart from the Commission's tariff publishing rules to the extent necessary for publishing and filing a terminal surcharge tariff in the manner and form set forth in the petition.

It is further ordered, That the authority granted be, and it is hereby, conditioned in the following manner:

1. The tariff published under this authority shall bear an expiration date not beyond sixty days from effective date, which may not be changed unless specifically authorized by this Commission.

2. The surcharge shall remain in effect not to exceed 60 days from effective date, unless terminated, modified, changed, or otherwise ordered by the Commission.

3. The Rock Island shall determine on a continuous basis the extent to which application of the surcharge results in diversion of shipments from its lines, the net revenue effect of any such diversion and the effect of the net revenue result on the applicant's cash position. Beginning on April 14, 1975, and on each seventh day thereafter, the applicant shall submit to the Interstate Commerce Commission, Room 5342, a report covering the previous seven days showing its daily determination of such diversion, and net revenue and cash effects. The report shall summarize the diversion and net revenue effect in terms of local, interline received and interline forwarded traffic, and provide details of these effects for the applicant's major interchange points. The effect on the net cash position shall include the total amounts realized from the surcharge also in terms of local, interline forwarded and interline received estimates, assumptions and other fac-complete details on the methodology, estimates, assumptions and other factors entering into the determinations.

4. That the word "shipment" or "shipments" be substituted for "traffic"

wherever the latter term appears in the text of the proposed tariff.

5. That the tariff include a provision reading:

On shipments entitled to and receiving authorized transit service, the date of original shipment (not the date shipment is billed or moves from the transit station) shall determine the application of this tariff, and the surcharge is not applicable to any shipment so made prior to the effective date of this tariff.

6. The tariff shall state that as to any one shipment not more than one surcharge per car or per trailer shall be applied.

It is further ordered, That authority is hereby granted to publish and file said publication effective upon notice to this Commission and the public of not less than five working days observed by the Commission (i.e. excluding Saturdays, Sundays and legal holidays). Any filing hereunder shall be subject to protest and possible suspension.

It is further ordered, That the publication filed under authority of this permission shall bear the following notation:

Notice and form of publication authorized, I.C.C. permission No. 75-3450.

And it is further ordered, That all outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of the publication authorized herein.

FOURTH SECTION ORDER No. 20474

It further appearing, that an interstate surcharge cannot be published and made effective without producing in some instances charges that yield greater compensation in the aggregate for the transportation of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, or greater compensation as a through charge than the aggregate-of-intermediate charges subject to the act, in contravention of section 4 thereof; that the financial condition of petitioner necessitates the surcharges involved which cannot be made effective without fourth-section relief; that there is no showing of record indicating an adverse affect by any such fourth-section departures as a result of the surcharges; and that a special case has been presented in which relief from the provisions of section 4 may be authorized;

It is ordered, That upon the effective date of the surcharges for which relief is herein authorized, petitioner be, and it is hereby, authorized to establish and maintain said surcharges without observing the provisions of section 4 of the act;

It is further ordered, That the tariff shall make reference to this order in the manner required by rule 28 of Tariff Circular No. 20.

And it is further ordered, That notice of orders entered herein with respect to the Special Permission application and the section 4 relief be given to the gen-

eral public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 75-8549 Filed 4-1-75; 8:45 am]

[Rule 19, Ex Parte 241, Exemption 96]

DETROIT, TOLEDO AND IRONTON RAILROAD CO., NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Mandatory Car Service Rules

It appearing, that the Detroit, Toledo and Ironton Railroad Company (DT&I) and the Norfolk and Western Railway Company (N&W) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 394, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", "GT", and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the DT&I and N&W without regard to the requirements of Car Service Rules 1 and 2.

REPORTING MARKS	
DT&I	N&W
DT&I	NKP
DTI	P&WV
USLD	VGN
	WAB
	N&W

Effective: March 17, 1975.

Expires: June 15, 1975.

Issued at Washington, D.C., March 17, 1975.

INTERSTATE COMMERCE
COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc. 75-8542 Filed 4-1-75; 8:45 am]

[Rule 19; Ex Parte No. 241, Exemption 81, Amdt. 3]

ERIE LACKAWANNA RAILWAY CO. AND LEHIGH VALLEY RAILROAD CO.

Exemption Under Mandatory Car Service Rules

To: Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S.

Tyler, Jr., Trustees; Lehigh Valley Railroad Company, (John F. Nash and Robert C. Haldeman, Trustees).

Upon further consideration of Exemption No. 81 issued July 15, 1974.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 81 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire June 30, 1975.

This amendment shall become effective March 31, 1975.

Issued at Washington, D.C., March 25, 1975.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[SEAL]

[FR Doc.75-8543 Filed 4-1-75; 8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 28, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55571, filed March 17, 1975. Applicant: KERNVILLE STAGE & FREIGHT LINES OF CALIFORNIA, 425 19th Street, Bakersfield, Calif. 93301. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of General Commodities, between the following points and places: (1) Lodi and Bakersfield, via State Highway 99. (2) Interstate Highway 580 from its junction with State Highway 99 to Stockton. (3) Inyokern and Bridgeport, via U.S. Highway 395. (4) Bakersfield and Barstow, via State Highway 58. (5) Palmdale and Cajon Junction, via State Highway 138. (6) Cajon Junction and Barstow, via Interstate Highway 15 (U.S. Highway 66). (7) The junctions of U.S. Highway 395 with Interstate Highway 15 (near Hesperia), and State Highway 14 (near Inyokern), via U.S. Highway 395. (8) Bakersfield and Trona, via State Highway 178. (9) The junction of State Highway 14 with State Highway 178 (near

Homestead), and Palmdale, via State Highway 14. (10) The junction of Trona Road with U.S. Highway 395, and Trona, via unnumbered county road (Trona Road). (11) Serving all intermediate points and all off-route points within 20 miles laterally of the routes referred to in paragraphs (1) through (10). Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State Building, Civic Center, 350 McAllister Street, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8544 Filed 4-1-75; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 28, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before April 17, 1975.

FSA No. 42964—Joint Water-Rail Container Rates—Yamashita-Shinnihon Line. Filed by Yamashita-Shinnihon Line, (No. 8), for itself and interested rail carriers. Rates on general commodities, between ports in Burma, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8540 Filed 4-1-75; 8:45 am]

[Notice No. 259]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

APRIL 2, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the

application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 22, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75489. By order of March 12, 1975, the Motor Carrier Board approved the transfer to Claude L. Walker and Alice H. Walker, a partnership, Tamaqua, Pa., of the operating rights in Certificates Nos. MC 48102 and MC 48102 (Sub-No. 1) issued June 23, 1956, and January 29, 1971, to Robert T. Adams, doing business as Checkerboard Vans, Tamaqua, Pa., authorizing the transportation of packinghouse products, from Tamaqua, Pa., to points in Pennsylvania within 50 miles thereof; newspapers, from Tamaqua, Pa., to Hazleton, Pa.; household goods, between Tamaqua, Pa., and points within 50 miles thereof, on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Ohio, Delaware, Maryland, Virginia, and the District of Columbia; general commodities, usual exceptions, between Tamaqua, Pa., and points within 10 miles thereof, and household goods, between points in Schuylkill County, Pa., on the one hand, and, on the other, points in New York and New Jersey. James R. Bowe, 129 West Broad Street, Tamaqua, Pa. 18252, attorney for applicants.

No. MC-FC-75723. By order of March 13, 1975, the Motor Carrier Board approved the transfer to G. Charette Transport, Limited, Windsor, Ontario, Canada, of the operating rights in Permit No. MC 136244 issued September 29, 1973 to George Vincent Charette, Windsor, Ontario, Canada, authorizing the transportation of reconditioned pallets and shipping containers, and materials used in the reconditioning of the above commodities between points in Michigan, on the one hand, and, on the other, the port of entry on the United States-Canada Boundary line at Detroit, Mich. Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich., 48226, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8545 Filed 4-1-75; 8:45 am]

[Notice 33]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Builders Transport, Inc., MC-124839 Sub 22	MC-124839 Sub-17	May 2, 1974
Shelton Trucking Service, Inc., MC-124887 Sub 2	MC-124887 Sub-2	May 6, 1974
Road Runner Trucking, Inc., MC-125996 Sub 34	MC-125996 Sub-30	May 23, 1974
D.R.A., R. H. Boelt Truck Lines, MC-127306 Sub 66	MC-127306 Sub-55	May 17, 1974
H. H. Oms, Inc., MC-128133 Sub 12	MC-128133 Sub-10	May 6, 1974
D.R.A., Blosser Trucking, MC-128256 Sub 19	MC-128256 Sub-22	May 23, 1974
E. Z. Messenger Service, Inc., MC-133788 Sub 7	MC-133788 Sub-8	May 15, 1974
North East Express, Inc., MC-133906 Sub 7	MC-133906 Sub-11	May 8, 1974
Schultz Transit, Inc., MC-134631 Sub 17	MC-134631 Sub-18	May 23, 1974
Livestock Service, Inc., MC-134643 Sub 8	MC-134643 Sub 4	May 21, 1974

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8555 Filed 4-1-75; 8:45 am]

[Notice No. 11]

**MOTOR CARRIER ALTERNATE ROUTE
DEVIATION NOTICES**

MARCH 28, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before May 2, 1975.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 30504 (Deviation No. 11), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed February 28, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From junction U.S. Highways 41 and 20 in Chicago, Ill., over U.S. Highway 41 to junction U.S. Highway 41A, thence over U.S. Highway 41A to Nashville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction U.S. Highways 41 and 20, over U.S. Highway 20 to Michigan City, Ind., thence over U.S. Highway 35 via LaPorte, Ind., to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Highway 31 E, thence over U.S. Highway 31 E to Louisville, Ky., thence over U.S. Highway 31 W to Elizabethtown, Ky., thence over Kentucky Highway 61 to Hodgenville, Ky., thence over U.S. Highway 31 E to Nashville, Tenn., and return over the same route.

No. MC 52709 (Deviation No. 27) (Cancels Deviation No. 26), RINGSBY UNITED, P.O. Box 192, Littleton, Colo. 80120, filed March 7, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over deviation routes as follows: (1) From Lincoln, Nebr., over U.S. Highway 34 to Union, Nebr., thence over U.S. Highway 75 to Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to St. Joseph, Mo., (2) From Lincoln, Nebr., over Nebraska Highway 2 to Nebraska City, Nebr., thence over U.S. Highway 75 to Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to St. Joseph, Mo., (3) From Lincoln, Nebr., over U.S. Highway 34 to Union, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 36, and (4) From Lincoln, Nebr., over Nebraska Highway 2 to Nebraska City, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 36 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Lincoln, Nebr., over U.S. Highway 77 to Marysville, Kans., thence over U.S. Highway 36 to St. Joseph, Mo., and return over the same route.

No. MC 52709 (Deviation No. 28) (Cancels Deviation No. 25), RINGSBY UNITED, P.O. Box 192, Littleton, Colo. 80120, filed March 7, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Beloit, Wis., over Interstate Highway 90 to junction Interstate Highway 229, thence over Interstate Highway 229 to Sioux Falls, S. Dak., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Beloit, Wis., over Illinois Highway 75 to Freeport, Ill., thence over U.S. Highway 20 to Sioux City, Iowa, thence over U.S. Highway 75 to Rock Rapids, Iowa, thence over Iowa Highway 9 to junction unnumbered highway, thence over unnumbered highway via Benclare, S. Dak., to junction unnumbered highway, thence over unnumbered highway to East Sioux Falls, S. Dak., thence over South Dakota Highway 38 to Sioux Falls, S. Dak., and return over the same route.

No. MC 52709 (Deviation No. 30), RINGSBY UNITED, P.O. Box 192, Littleton, Colo. 80120, filed March 7, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Crow Agency, Mont., over Interstate Highway 90 to Butte, Mont., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Crow Agency, Mont., over U.S. Highway 87 to Billings, Mont., thence over Montana Highway 3 to junction U.S. Highway 12, thence over U.S. Highway 12 to Helena, Mont., thence over U.S. Highway 91 to Butte, Mont., and return over the same route.

By the Commission.
[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8547 Filed 4-1-75; 8:45 am]

[Notice No. 25]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 28, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) Grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications.

cations directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a (b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.-250.

Protests to the granting of the requested authority must be filed with the Commission on or before May 2, 1975 (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's general rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) or section 240(c) (4) of the special rules, and shall include the certification required therein.

MC 130237 (Republication) filed April 5, 1974, and published in the *FEDERAL REGISTER* issue of June 27, 1974, and republished this issue. Applicant: SOUTH PENN MOTOR CLUB, a corporation, 230 Lincoln Way East, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. A Supplemental Order of the Commission, Operating Rights, Board, dated February 28, 1975, and served March 19, 1975, finds, that operation by applicant at Chambersburg and Waynesboro, Pa., as a broker in arranging for the transportation by motor vehicle, interstate or foreign commerce, of passengers and their baggage, in special and charter operations, in one-way and round-trip tours, beginning and ending at points in Franklin County, Pa., and extending to points in the United States, including Alaska and Hawaii will

be consistent with the public interest and the national transportation policy that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include Waynesboro, Pa. as a point at which applicant may conduct operations as a broker. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a license in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 12520 (Sub-No. 2) (Notice of filing of petition to modify a license), filed March 12, 1975. Petitioner: ROGER Q. WILLIAMS TOURS, INC., P.O. Box 9112, Knoxville, Tenn. 37920. Petitioner's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Petitioner holds a license to engage in operation as a broker at Knoxville, Tenn. in No. MC 12520 (Sub-No. 2), issued July 6, 1964, to sell or offer to sell the transportation of *Passengers and their baggage*, in round-trip tours: (1) beginning and ending at Norris, Tenn., and points within 75 miles thereof, and extending to points in the United States (except Alaska and Hawaii); and (2) beginning and ending at points in Alabama, Florida, Louisiana, Mississippi, South Carolina, and West Virginia, and at points in Kentucky, Virginia, and North Carolina (except those within 75 miles of Norris, Tenn.), and extending to points in the United States (except Alaska and Hawaii).

By the instant petition, petitioner seeks to modify the above license by adding Lexington, Ky. as a point at which operations as a broker may be conducted in addition to Knoxville, Tenn. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition on or before May 2, 1975.

No. MC 115570 (Notice of filing of petition to add an origin point), filed August 21, 1974. Petitioner: WALTER A. JUNG, INC., P.O. Box 91531, 3818 84th St., SW., Tacoma, Wash. 98491. Petitioner's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Petitioner holds a motor contract carrier permit in No. MC 115570, issued August 28, 1958, authorizing transportation, as pertinent, over regular routes, of *Paper, paper products and paper mill supplies*, from Portland, Oreg., to Seattle, Wash., serving the intermediate point of

Tacoma, Wash., restricted to delivery only: (1) From Portland over U.S. Highway 99 to Grand Mound, Wash., thence over unnumbered highway (formerly U.S. Highway 99) via Tenino, Wash., to Olympia, Wash., thence over U.S. Highway 99 via Tacoma, Wash., to Seattle, and return over the same route; (2) From Portland to Tacoma, Wash., as specified above, thence over U.S. Highway 410 to Sumner, Wash., thence over Washington Highway 5 to junction Washington Highway 2, thence over Washington Highway 2 to Seattle, and return over the same route; and (3) From Portland over the above-described routes to Tenino, Wash., thence over Washington Highway 5H to junction Washington Highway 5, thence over Washington Highway 5 through Parkland, Wash., to Tacoma, Wash., thence over the above-specified routes to Seattle, and return over the same route, under contract with shippers willing to enter into a contract with petitioner to perform the above service. By the instant petition, petitioner seeks to add Albany, Oreg. as an origin point (over routes which petitioner has not specified) in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 2, 1975.

No. MC 129747 (Notice of filing of petition to modify territorial description), filed March 19, 1975. Petitioner: CASCO SERVICES, INC., 47 Chetwood Terrace, Fanwood, N.J. 07023. Petitioner's representative: George A. Olsen, 60 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor common carrier certificate in No. MC-129747, issued October 7, 1968, authorizing transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading). Between Kearny, Jersey City, and Newark, N.J., on the one hand, and, on the other, New York, N.Y. By the instant petition, petitioner seeks to amend the territorial description in the above authority so as to read: Between Kearny, Jersey City, and Newark, N.J., on the one hand, and, on the other, points in the New York, N.Y. Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b) (3) of the Interstate Commerce Act, (the "exempt" zone), and those points in New Jersey any part of which is within 5 miles of New York, N.Y.; or in the alternative, that the Commission issue its appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y. Commercial Zone as established by the Commission. Any interested person or persons desiring to

participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 2, 1975.

No. MC 135811 and (Sub-No. 1) (Correction of notice of filing of petition to modify permits), filed February 19, 1975, and published in the FEDERAL REGISTER issue of March 19, 1975, and partially republished as corrected this issue. Petitioner: GARDNER TRUCKING CO., INC., 320 Woodlawn, Walterboro, S.C. 29488. Petitioner's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. By the instant petition, petitioner seeks to modify the above permits so as to read, in MC 135811, *Welding rods, welding wire, and electric welders and parts, materials and supplies* used in connection therewith: (1) From Hanover, Pa., Monticello, Ind., and Charlottesville, Va., to points in Arizona, California, Oregon, Texas, and Washington, under a continuing contract or contracts with Chemetron Corporation of Hanover, Pa. The rest of the petition remains as originally published. The purpose of this corrected republication is to indicate that Charlottesville, Va., should be included as an origin point in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 2, 1975.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

Applications for certificates or permits which are to be processed concurrently with applications under section 5 governed by special rule 240 to the extent applicable:

No. MC 11207 (Sub-No. 355), filed March 12, 1975. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 702 World Center Building, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Birmingham and Tuscaloosa, Ala.: From Birmingham over U.S. Highway 11 to Tuscaloosa, and return over the same route, serving all intermediate points and all points within 65 miles of Birmingham as off-route points.

Restriction: The route described above may not be tacked or combined with any regular route authority presently held by Deaton to provide through service between points in Alabama.

NOTE.—This is a matter directly related to a Section 5 proceeding in MC-F-12453 published in the FEDERAL REGISTER of March 12, 1975. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 33807 (Sub-No. 6), filed March 3, 1975. Applicant: NASHUA MOTOR EXPRESS, INC., 270 Amherst Street, Nashua, N.H. 03060. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, Mass. 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Massachusetts as intermediate and off route points in connection with applicant's authorized regular route operations in Massachusetts and New Hampshire.

NOTE.—This is a matter directly related to a section 5 Proceeding in MC-F-12455 published in the FEDERAL REGISTER of March 19, 1975. If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Nashua, N.H.

No. MC 71169 (Sub-No. 10), filed March 5, 1975. Applicant: THE B & F TRANSFER COMPANY, a corporation, 111 Cascade Plaza, Akron, Ohio 44308. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Wooster, Ohio and Sandusky, Ohio: From Wooster, Ohio over U.S. Highway 30 to junction U.S. Highway 250, thence over U.S. Highway 250 to Sandusky, Ohio, and return over the same route; (2) Between Wooster, Ohio, and Toledo Ohio: From Wooster, Ohio, over U.S. Highway 30 to junction U.S. Highway 250, thence over U.S. Highway 250, to Norwalk, Ohio, thence over U.S. Highway 20 to junction Ohio Highway 51, thence over Ohio Highway 51 to Toledo, Ohio, and return over the same route; (3) Between Wooster, Ohio, and Conneaut, Ohio: From Wooster, Ohio, over Ohio Highway 585 to junction Ohio Highway 21, thence over Ohio Highway 21 to junction Interstate Highway 271 near Richfield, Ohio, thence over Interstate Highway 271 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Ohio Highway 7, thence over Ohio Highway 7 to Conneaut, Ohio, and return over the same route; (4) Between Wooster, Ohio and Youngstown, Ohio: From Wooster, Ohio, over Ohio Highway 585 to junction Ohio Highway 21, thence over Ohio 21 to junction

Interstate Highway 76, thence over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 680, thence over Interstate Highway 680 to Youngstown, Ohio, and return over the same route.

(5) Between Wooster, Ohio, and Marietta, Ohio: From Wooster, Ohio, over U.S. Highway 250 to junction Interstate Highway 77, thence over Interstate Highway 77 to junction Ohio Highway 821, thence over Ohio Highway 821 to Unionville, Ohio, thence over Ohio Highway 60 to Marietta, Ohio, and return over the same route; (6) Between Wooster, Ohio, and Portsmouth, Ohio: From Wooster, Ohio over Ohio Highway 3 to Columbus, Ohio, thence over U.S. Highway 23 to Portsmouth, Ohio, and return over the same route; (7) Between Wooster, Ohio and Cincinnati, Ohio: From Wooster, Ohio, over U.S. Highway 30 to junction Interstate Highway 71, thence over Interstate Highway 71 to Cincinnati, Ohio, and return over the same route; and (8) Between Wooster, Ohio, and Lima, Ohio: From Wooster, Ohio, over U.S. Highway 30 to junction U.S. Highway 30N near Mansfield, Ohio, thence over U.S. Highway 30N to junction Interstate Highway 71, thence over Interstate Highway 71 to Cincinnati, Ohio, and return over the same route; serving all intermediate points on all of the above described routes and all other points in Ohio as off-route points in connection with said routes; restricted (a) to the transportation of traffic moving to, from or thru Wooster, Ohio; (b) against traffic moving to or from points in Commercial Zones beyond the state of Ohio; and (c) against tacking Routes (1) thru (8) with each other for the purpose of providing thru service.

NOTE.—This is a matter directly related to a section 5 proceeding in No. MC-F-12460 published in the FEDERAL REGISTER of March 19, 1975. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 113678 (Sub-No. 586), filed March 12, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery*, from points in Blair County, Pa., to points in Arizona, California, Nevada, and New Mexico; (2) *fresh and canned fruits and berries, and canned fruit juices*, from points in that part of Michigan on and west of a line beginning at Mackinaw City, Mich., and extending along Interstate Highway 75 to Clare, Michigan, and thence along U.S. Highway 27 to the Michigan-Indiana State Boundary line, to points in Arizona, California, Nevada, New Mexico, and Utah; (3) *food products* (except (a) frozen foodstuffs, (b) meat, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to

the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (c) commodities in bulk, and (d) beverages), from the terminal facilities of Curtis, Inc., at Carlstadt, N.J., and points in the New York, N.Y., Commercial Zone, as defined by the Commission, and points in Union County, N.J., to points in Arizona, California, Nevada, New Mexico, and Utah; (4) *candy, confectionery and confectionery products* (except commodities in bulk and frozen foodstuffs), from the plant site and warehouse facilities of Topps Chewing Gum, Inc., at or near Duryea, Pa., to points in Arizona, California, Nevada, New Mexico, and Utah;

(5) *Canned goods*, from the plant sites and warehouse facilities of the Borden Company at Waterloo, Red Creek, Rushville, Egypt, Fairport, Newark, and Lyons, N.Y. to points in Arizona, California, Nevada, New Mexico, and Utah; (6) *canned vegetables and fresh vegetables*, when moving in mixed shipments with canned vegetables, from the plant site and storage facilities of A. Duda & Sons Cooperative Association, Redi Foods Division, at Lake Jem, Fla., to points in Arizona, California, Nevada, New Mexico, and Utah; (7) *foodstuffs*, in containers (except (a) frozen foodstuffs, (b) meat, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (c) commodities in bulk, and (d) beverages), from the facilities of Pepperidge Farm, Incorporated, at Downingtown, Lancaster, Philadelphia, Pa., to points in Arizona, California, Nevada, New Mexico, and Utah; and (8) *non-dairy coffee creamer*, from Lake City and Erie, Pa., and Mt. Morris, N.Y., to points in Arizona, California, Nevada, New Mexico, and Utah.

NOTE.—The purpose of this application is to eliminate a gateway at Fairbury, Nebr. This is a matter directly related to a section 5 proceeding in MC-F-12464 published in the *Federal Register* of March 26, 1975. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Omaha, Nebr.

No. MC-F-11836 (Supplemental) (DELAWARE EXPRESS CO.—PURCHASE—FRANKLIN B. BAKER, JR.), published in the April 11, 1973, issue of the *Federal Register*, on page 9199 and No. MC 114301 (Sub-No. 77) (Supplemental) (DELAWARE EXPRESS CO.—CONVERSION APPLICATION) published in the June 20, 1973, issue of the *Federal Register*, on page 16123.

Upon consideration of the petition filed for reconsideration of the order of the Commission, Review Board Number 5, decided July 9, 1974, Division 3 acting as an Appellate Division, by its order, service date March 19, 1975, has granted a broader commodity description to vendor's permit, No. MC 124730. Issuance of a certificate, in lieu thereof, to vendee shall be withheld for 30 days from this notice, in order that any interested party may intervene in said proceeding setting

forth the precise manner in which it has been prejudiced.

Authority granted in No. MC 114301 (Sub-No. 77) and MC-F-11836.

Roofing materials, and siding and materials and supplies used in the manufacture and distribution of roofing materials and siding, over irregular routes, between Edgemoor, Del., on the one hand, and, on the other, points in Fairfield, Hartford, and New Haven Counties Conn., Maryland, New Jersey (except Manville), Nassau, Orange, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, and New York, N.Y., points in Chester, Delaware, Bucks, Lebanon, Berks, Lancaster, York, Cumberland, Perry, Franklin, Adams, Dauphin, Juniata, Montgomery, Philadelphia, Susquehanna, Luzerne, Wayne, Wyoming, Carbon, Lackawanna Schuylkill, Northampton, Monroe, Pike, Sullivan, Lehigh, Indiana, Allegheny, Armstrong, Beaver, Washington, Cambria, and Northumberland Counties, Pa., Fairfax, Arlington, Stafford, and Prince William Counties, Va., and Washington, D.C., restricted to transportation of traffic originating at and destined to the plant site of Artic Roofing Company, Inc., at Edgemoor, Del., and the territory just described.

No. MC-F-12391. (Correction) (ACE DORAN HAULING & RIGGING CO.—PURCHASE (PORTION)—FRED CARPENTER, INC.), published in the March 5, 1975, issue of the *Federal Register*, on page 10269. Prior notice should be modified to read as follows: Operating rights sought to be transferred: *Commodities*, which because of their size or weight require special handling or the use of special equipment, as a *common carrier* over irregular routes, between Syracuse, N.Y., and points in New York within 75 miles of Syracuse, on the one hand, and, on the other, points in Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

No. MC-F-12393. (Amendment) (D. L. CASTRO AND R. C. HARMONSON, both of 611 N. Mission Rd., Los Angeles, CA 90033), AND S. D. KNOPP, 150 S. Horton St., Seattle, WA 98114, of continuance in control of SUPERIOR CARTAGE OF WASHINGTON, INC., and SUPERIOR FAST DRAYAGE, doing business as SUPERIOR EXPRESS: Applicants' attorney: Clarence William Vandergrift, P.O. Box 3562, Georgetown Station, Washington, DC 20007. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier* over irregular routes, between points within 15 miles of Spokane, Wash., including Spokane, Wash., between Spokane, Wash., on the one hand, and, on the other, the site of the U.S. Army Air Corps Maintenance and Supply Depot at Galena, Wash., approximately 7½ miles west of Spokane, Wash.; and under a certificate of registration, in Docket No. MC 121336 (Sub-No. 1), covering the transportation of general commodities, as a *common carrier*, in inter-

state commerce, within the State of California.

No. MC-F-12439. (Correction) (CAROLINA FREIGHT CARRIERS CORPORATION—PURCHASE (PORTION)—O. K. MOTOR SERVICE, INC.), published in the March 5, 1975, issue of the *Federal Register*, on page 10270. Prior notice should be modified to read as follows: between Peoria, Ill., and Waukesha, Wis., serving all intermediate points.

No. MC-F-12440. (Supplement) (M & M TRANSPORTATION COMPANY—PURCHASE (PORTION)—NELSON FREIGHTWAYS, INC.). In accordance with the order of Review Board No. 5, served March 5, 1975. Joinder of the following individuals who control Qualpeco Services, Inc., which in turn controls M & M Transportation Company are as follows: H. T. KERR, G. J. SIDERIS, DONALD L. CALDERA, AND STEPHEN J. RYAN, all of 750 Third Ave., New York, N.Y. 10017.

No. MC-F-12453. (Correction) (JONES TRUCK LINES, INC.—PURCHASE (PORTION)—DEATON, INC.), published in the March 12, 1975, issue of the *Federal Register* on page 11678. Prior notice should be modified to read: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Birmingham, Ala., and Greenville, Miss., serving Birmingham, Ala., for purposes of joinder only, between Oxford and Birmingham, Ala., serving Oxford and Birmingham, Ala., for purposes of joinder only, between Atlanta, Ga., and Oxford, Ala., serving no intermediate points and serving Oxford, Ala., for purposes of joinder only, with restriction; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Atlanta, Ga., and a described area around Atlanta, on the one hand, and, on the other, Oxford, Ala., serving Oxford for purposes of joinder only.

No. MC-F-12469. Authority sought for purchase by THE COLONIAL TRANSIT COMPANY, INCORPORATED, P.O. Box 508, Fredericksburg, VA 22401, of a portion of the operating rights of WMA INTERSTATE MOTOR LINES, INC., 4411 Southern Ave. SE., Washington, DC 20019, and for acquisition by ALVIN Y. BANDY, 202 Phillips St., Fredericksburg, VA 22401, CHARLES L. BANDY, 800 Culpeper St., Fredericksburg, VA 22401, and ROBERT C. GIBBONS, 14505 N. Brook Dr., Woodbridge, VA 22191, of control of such rights through the purchase. Applicants' attorney: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincoln Rd., Alexandria, VA 22312. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, as a *common carrier* over regular routes, between Washington, D.C., and Indian Head, Md., between Fort Washington, and Silesia, Md., serving all intermediate points. Vendee is authorized

to operate as a common carrier in Maryland, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12470. Authority sought for purchase by MOON FREIGHT LINES, INC., 120 W. Grimes Lane, Bloomington, IN 47401, of the operating rights and property of MOORMAN TRUCKING COMPANY, INC., Bloomington, IN 47401, and for acquisition by WILLIAM E. BENCKART, AND FLUERETTE BENCKART, both of Bloomington, IN 47401, OMAR S. BRUNER, JR., AND HARRIETT BRUNER, 8848 Westfield Way, Indianapolis, IN 46240, of control of such rights and property through the purchase. Applicants' attorney: Donald W. Smith, Suite 2465—One Indiana Square, Indianapolis, IN 46204. Operating rights sought to be transferred: *Masonry contractors' equipment and supplies, as a common carrier over irregular routes, between points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Michigan, and Ohio; acoustical blocks, bricks, building and roofing tile, cement, cinder blocks, clay products, concrete blocks, flexicor, flue lining, hadite blocks, lime, metal lath, mortar, plaster, concrete reinforcing steel, rough and dressed stone, and sewer tile, from points in Indiana to points in Illinois, Kentucky, Michigan and Ohio; bricks, from Danville, Ill., to points in Indiana; dressed and finished stone, from Indianapolis, Ind., to points in New York and Wisconsin; building materials as described in appendix VI to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, and materials and supplies used in the manufacture of building materials, between the site of the plant of the National Gypsum Company, Inc., located at or near Raney Spur, Ind. (about three miles east of Shoals, Ind., on U.S. Highway 50), on the one hand, and, on the other, points in Illinois, Kentucky, Michigan, Ohio, and St. Louis County, Mo.; clay products, from points in Morgan County, Ind., to certain specified points in Wisconsin, and Missouri.*

Building materials as described in Appendix VI to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, except commodities, the transportation of which because of size or weight requires the use of special equipment, from the plant site of the National Gypsum Co., near East Shoals (Raney Spur), Ind., (on U.S. Highway 50) to points in Tennessee and points in the defined Counties of Missouri; clay products, from points in Clay County, Ind., to points in Missouri (except St. Louis and points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission) and Iowa; and return with pallets used in transporting clay products. Vendee is authorized to operate as a common carrier in Indiana, Missouri, Kentucky, Ohio, Michigan, Illinois, Delaware, Iowa, Kansas, Maryland, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West

Virginia, Wisconsin, Massachusetts, Connecticut, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Nebraska, North Dakota, South Dakota, Minnesota, Texas, North Carolina, South Carolina, Rhode Island, Vermont, Maine, New Hampshire, Colorado, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12471. Authority sought for control by CARL W. REAGAN, doing business as SOUTHEAST TRUCKING COMPANY, 8418 Tallmadge Rd., R.D. #6, Ravenna, OH 44266, of CHARTER EXPRESS, INC., 1814 Gless Ave., Akron, OH 44301. Applicants' attorneys: Robert N. Krier, 85 E. Gay St., Columbus, OH 43215 and Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. Operating rights sought to be controlled: *Plastic, rubber, plastic and rubber products, and supplies and machinery used in the manufacture of such commodities, as a common carrier over irregular routes, between Fremont, Ohio, on the one hand, and, on the other, points in Massachusetts, New Jersey, New York, and Pennsylvania, with restriction; such commodities as are manufactured, processed and/or dealt in by rubber manufacturers and steel products manufacturers, and equipment, materials, and supplies used in the conduct of such business, from Akron, Ohio, to points in Rhode Island, Massachusetts, and Connecticut, and certain specified points in New York and New Jersey; chemicals, from Naugatuck, Conn., to Akron, Ohio; scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass.; Hartford, Conn., Newark, N.J., and Albany, and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio, with restriction; plastic flakes, granules, lumps, paste, pellets, and powders, in containers, from Bellevue, Ohio, to Bridgeport, Middletown, and Wallingford, Conn.; Wilmington, Del.; Stoughton, Mass.; Garwood, Hamburg, Hoboken, Mountain View, New Brunswick, and Paterson, N.J.; Amsterdam, Hicksville, New York, and Smithtown, N.Y., and Nazareth and Philadelphia, Pa.; plastic scrap (except bulk shipments moving in tank vehicles), from Naugatuck, Conn., Boston, Fall River, Lawrence, and Springfield, Mass.; Elizabeth, Garwood, Newark, and Trenton, N.J.; Buffalo, Chester, Middleport, and New York, N.Y.; and Economy, Jeannette, Philadelphia, Port Allegheny, Pottstown, and Rochester, Pa., to Bellevue, Ohio. CARL W. REAGAN, doing business as SOUTHEAST TRUCKING CO., is authorized to operate as a common carrier in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and the District of Columbia.*

NOTICE

Chicago and North Western Transportation Company (hereinafter "CNW") hereby gives notice that on the 13th day of March, 1975, it filed with

the Interstate Commerce Commission at Washington, D.C., an application for approval of an agreement authorizing trackage rights by the CNW over tracks of the Milwaukee Road between Winona, Minnesota and Tunnel City, Wisconsin, all in Winona County, Minnesota and La Crosse and Monroe Counties, Wisconsin, a distance of approximately 67.79 miles, beginning at Milepost 243.52 at Winona, Minnesota and extending to Milepost 311.61 at Tunnel City, Wisconsin. CNW states that no shippers or receivers will be adversely effected. The trackage rights to be operated lie between Winona, Minnesota and Tunnel City, Wisconsin. This application has been assigned Finance Docket No. 27867. Correspondence in regard to this matter including all protests should be addressed to Stuart F. Gassner, General Attorney, Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, Illinois 60606.

In the opinion of Applicant the Commission's action requested, i.e., approval of the trackage rights, will not have any significant impact and will not significantly adversely effect the quality of the human environment. Rather applicant alleges that coordination of through train operations will have a beneficial effect on the environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before May 2, 1975.

NOTICE

The Atchison, Topeka and Santa Fe Railway Company, represented by Mr. Harvey Huston, Assistant General Counsel, 80 East Jackson Boulevard, Chicago, Illinois 60604, hereby gives notice that on the 10th day of March, 1975, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) (a) (1) of the Interstate Commerce Act for authority to purchase from Chicago and North Western Transportation Company a line of railroad extending from Superior, Nebraska, to the Kansas-Nebraska State Line, including 2.2 miles of main track and 2.0 miles of side tracks, for a total of approximately 4.2 miles, located in Nuckolls County, Nebraska. The applicant presently and for many years past has operated over this line pursuant to a trackage rights agreement with the Chicago and North Western Transportation Company which desires to sell this line to the applicant, having discontinued its own operations over it pursuant to authority granted by the Interstate Commerce Commission in Finance Docket No. 26417. This application has been assigned Finance Docket No. 27865. In the opinion of the applicant, the authority sought by this application will have no significant effect upon the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1100.250) in

Ex Parte No. 55 (Sub-No. 4), Implementation - National Environmental Policy Act of 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present the statement shall include such information relating to the factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)-(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before May 2, 1975.

By the Commission.

(SEAL) ROBERT L. OSWALD,
Secretary.

[FR Doc. 75-8548 Filed 4-1-75; 8:45 am]

[Notice No. 33]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 28, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office, to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 10223 (Sub-No. 10TA), filed March 20, 1975. Applicant: ROBERT E. MACK, CARL BROWN, SOPHIE R. MACK, ESTELLE M. FUNK, AND THERESA R. MOLLOY, doing business as MACK TRANSPORTATION COMPANY, 4330 Torresdale Avenue, Philadelphia, Pa. 19124. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such

commodities as are dealt in by department stores, between the stores and facilities of Bamberger's, Division of R. H. Macy & Co., Inc., at points in Edison Township, Middlesex County, N.J., on the one hand, and, on the other, points in New Jersey, Delaware, Fairfield County, Conn., Cecil, Kent, and Hartford Counties, Md., Philadelphia, Chester, Bucks, Delaware, Montgomery, Lancaster, Berks, Lehigh, Schuylkill, Carbon, Lebanon, Pike, Monroe, Luzerne, Northampton, and Lackawanna Counties, Pa., Rockland, Nassau, Suffolk, Orange, Putnam, Westchester, Bronx, Queens, Richmond, Kings, New York, Ulster, Sullivan, and Dutchess Counties, N.Y., for 180 days. Supporting shipper: Bamberger's, Division of R. H. Macy & Co., Inc., Newark, N.J. 07101. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, 600 Arch Street, Room 3232, Philadelphia, Pa. 19106.

No. MC 18535 (Sub-No. 60TA), filed March 21, 1975. Applicant: HICKLIN MOTOR LINE, INC., P.O. Box 377, St. Matthews, S.C. 29135. Applicant's representative: Edward J. Morrison, P.O. Box 67, Lexington, S.C. 29072. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry fertilizer fertilizer materials, in bulk, between points in Chatham County, Ga., and points in South Carolina, for 180 days. Supporting shippers: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Sales, Inc., P.O. Box 246, Savannah, Ga. 31402. Southern States Phosphate & Fertilizer Company, P.O. Box 564, Savannah, Ga. 31402. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 76629 (Sub-No. 7TA), filed March 19, 1975. Applicant: OVERLAND FREIGHT LINES, INC., P.O. Box 31136, Indianapolis, Ind. 46231. Applicant's representative: Robert Hecht (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty metal beverage containers, from A. C. Leasing Warehouse, Sharonville, Ohio and the plantsite of the National Can Corporation, Oetz, Ohio to the G. Helleman Brewing Co., Inc., Evansville, Ind., Supporting shipper: G. Helleman Brewing Co., Inc., 925 South 3rd Street, La Crosse, Wis. 54601. Send protests to: James W. Habermehl, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn. Street, Indianapolis, Ind. 46204.

No. MC 100300 (Sub-No. 13TA), filed March 20, 1975. Applicant: H. B. NELSON AND SONS, INC., P.O. Box 241, Alexandria, Minn. 56308. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Supplies, materials and equipment used in the manufacture and distribution of malt

beverages and related advertising materials, from points in Minnesota to points in Olympia, Wash., for 180 days. Supporting shipper: Olympia Brewing Company, P.O. Box 947, Olympia, Wash. 98507. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg. & U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

No. MC 102567 (Sub-No. 183TA), filed March 19, 1975. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day, 2040 N. Loop West, Suite 208, Houston, Tex. 77018. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lubricating oil, in bulk, in tank vehicles, from Norphlet, Ark., to points in Bowmansville, N.Y., for 180 days. Supporting shipper: MacMillan Ring-Free Oil Co., Inc., P.O. Box 1623, El Dorado, Ark. 71730. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 107010 (Sub-No. 57TA), filed March 19, 1975. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, Nebr. 68305. Applicant's representative: Patrick E. Quinn, Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Crushed rock, rock sand, and gravel from Richardson and Nemaha Counties, Nebr., to points in Kansas and Missouri, for 180 days. Supporting shipper: Wayne Niemeyer, Nemaha Valley Construction & Quarries, R.F.D., Salem, Nebr. 68433. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Bldg., & Court House, Lincoln, Nebr. 68508.

No. MC 112520 (Sub-No. 302TA), filed March 19, 1975. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Clay and processed clay, in bulk, in tank vehicles, from points in Deatur County, Ga., to Yorktown, Va., for 180 days. Supporting shipper: Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, N.J. 08817. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 112520 (Sub-No. 303TA), filed March 21, 1975. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Naval stores products, in bulk, in tank vehicles, from Telogia, Fla., to points in New Jersey.

New York, and Pennsylvania, for 180 days. Supporting shipper: Reichhold Chemicals, Inc.-Newport Division, P.O. Box 1433, Pensacola, Fla. 32596. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 114019 (Sub-No. 259TA), filed March 20, 1975. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arnold L. Burke, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen foodstuffs* (except in bulk), from Owensboro, Ky., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, all restricted to traffic originating at the plantsite of Ragu Foods, Inc., at Owensboro, Ky., and destined to points in the named destination states, for 180 days. Supporting shipper: Richard J. Herman, Traffic Manager, Ragu Foods, Inc., 1680 Lyell Ave., Rochester, N.Y. 14606. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 114045 (Sub-No. 415TA), filed March 20, 1975. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: Arnold L. Burke, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen foodstuffs* (except in bulk), from Owensboro, Ky., to points in Arizona, Arkansas, California, Colorado, Louisiana, Nevada, New Mexico, Oklahoma, Texas, Utah, restricted to traffic originating at the plantsite of Ragu Foods, Inc., at Owensboro, Ky., and destined to points in the named destination states, for 180 days. Supporting shipper: Ragu Foods, Inc., 1680 Lyell Avenue, Rochester, N.Y. 14606. Send protests to: Gerald T. Holland, District Supervisor, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 117119 (Sub-No. 529TA), filed March 21, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and unfrozen meats, and frozen and unfrozen foodstuffs*, from the facilities of New Orleans Cold Storage Co., at New Orleans, La., and its Commercial Zone, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Lower Peninsula of Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin,

for 180 days. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., 124 Airline Highway, Metairie, La. 70001. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 530TA), filed March 21, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hospital supplies viz., underpads, gowns, sheets*, from the manufacturing facilities of Fibre Formations, Inc., at Philadelphia, Pa., to Sioux Falls, S. Dak.; Sioux City, Iowa; Des Moines, Iowa; Grand Island, Nebr.; Kansas City, Mo.; Cedar Rapids, Iowa; Amarillo, Tex.; Fort Dodge, Iowa; Little Rock, Ark.; Minneapolis, Minn.; and Omaha, Neb., for 180 days. Supporting shipper: Fibre Formations, Inc., 1801 Courtland St., Philadelphia, Pa. 19140. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119880 (Sub-No. 64TA), filed March 17, 1975. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056, E. Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey*, in bulk, in tank vehicles, from Pekin, Ill., to Boston, Mass., for 180 days. Supporting shipper: The American Distilling Company, South Front Street, Pekin, Ill. 61554. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 123407 (Sub-No. 226TA), filed March 19, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar cane horticulture mulch*, baled or bagged, from Marrero, La., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper: Celotex Corp., 1500 N. Dale Mabry, Tampa, Fla. 33607. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 124078 (Sub-No. 638 TA), filed March 19, 1975. Applicant: SCHWERTMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Bos-

ton, Mass., (except from the plant and storage site of Atlantic Cement Company, Inc.), to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont, for 180 days. Supporting shipper: Marquette Cement Mfg. Company, 2200 First American Center, Nashville, Tenn. 37238. United States Steel Corporation, 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124078 (Sub-No. 639TA), filed March 20, 1975. Applicant: SCHWERTMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steam cylinder oil*, in bulk, in tank vehicles, and (2) *petroleum oil*, (1) from Memphis, Tenn., to Bethlehem, Pa., and (2) from Butler, Pa., to Memphis, Tenn., for 180 days. Supporting shipper: Sharvan Oil and Grease Corporation, P.O. Box 7413, Memphis, Tenn. 38107. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 126276 (Sub-No. 117TA), filed March 17, 1975. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from the plantsite of American Can Company, at Whitehouse, Ohio, to points in Milwaukee, Wis., for 120 days. Supporting shipper: William Frazier, Transportation Coordinator, American Can Company, 915 Harger Lane, Oak Brook, Ill. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 126956 (Sub-No. 9TA), filed March 20, 1975. Applicant: NORTHLAND TRANSPORT, INC., P.O. Box 626, Superior, Wis. 54880. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *ice cream and frozen confectionaries*, from Superior, Wis., to points in St. Cloud, Willmar, St. Paul, Maple Lake, Wadena, Minnesota and (b) *containers and pallets used in transporting commodities* in (a) from St. Cloud, Willmar, St. Paul, Maple Lake, Wadena, Minnesota to Superior, Wis., for 180 days. Supporting shipper: Meadow Good Dairy, Division of Beatrice Foods, 1627 Broadway, Superior, Wis. 54880. Send protests to: Raymond T. Jones, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., & U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

No. MC 128375 (Sub-No. 131TA), filed March 17, 1975. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Transformers, regulators, and electrical devices, related items, and parts thereof, and commodities used in the manufacture, operation, and distribution thereof* moving in both carrier owned and shipper owned trailers (except those commodities which because of their size and weight require the use of special equipment and except commodities in bulk), (1) Between Somersworth, N.H., Pittsfield, Mass., and Rotterdam, N.Y., and their commercial zones on the one hand, and, on the other, points in the United States on and west of the Mississippi River and the eastern boundary of Wisconsin and Louisiana. (2) (a) From Somersworth, N.H., to Rotterdam, N.Y., and/or Pittsfield, Mass. (b) From Pittsfield, Mass., to Rotterdam, N.Y., restricted in part 2 to transportation where at least 50% of the lading by weight of each trailer moving between the points involved has a final destination in the area located on and west of the Mississippi River and eastern boundaries of Wisconsin and Louisiana and is stopped in Rotterdam, N.Y., and/or Pittsfield, Mass., for partial loading and/or partial unloading, under a continuing contract with General Electric Company, for 180 days. Supporting shipper: Don L. McIntire, General Electric Company, 100 Woodlawn Avenue, Pittsfield, Mass. 01201. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Building, Lincoln, Nebr. 68508.

No. MC 134150 (Sub-No. 4TA), filed March 19, 1975. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4283 Mission Blvd., Pomona, Calif. 91766. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Residential heating and air conditioning equipment, and ranges, refrigerators, dishwashers, disposals, and range hoods*, from Los Angeles and City of Industry, Calif., to points in Washington, Oregon, Nebraska, Illinois, Indiana, Massachusetts, Tennessee, and Alabama, for 180 days. Supporting shipper: Gaffers & Stettler, Inc., 4851 South Alameda Street, Los Angeles, Calif. 90058. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 300 North Los Angeles Street, Room 1312, Los Angeles, Calif. 90012.

No. MC 134531 (Sub-No. 7TA), filed March 21, 1975. Applicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A, West Columbia, S.C. 29169. Ap-

plicant's representative: Edward J. Morrison, P.O. Box 67, Lexington, S.C. 29072. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Agricultural lime*, in bulk, in dump trucks, from points in Berkeley County, S.C., to points in Georgia; (2) *Dry fertilizer and fertilizer materials*, in bags and in bulk, in dump trucks from Wilmington, N.C., and 25 miles thereof to points in South Carolina; (3) *Dry fertilizer and fertilizer materials*, in bulk in dump trucks from Chatham and Richmond Counties, Ga., to points in South Carolina, for 180 days. Supporting shipper: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Sales, Inc., P.O. Box 246, Savannah, Ga. 31402. Send protests to: E. E. Strothel, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 135407 (Sub-No. 2TA), filed March 14, 1975. Applicant: TRI-STATE AIR-FREIGHT, INC., P.O. Box 27, Front Street, Essington, Pa. 19029. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, (except Classes A and B explosives, commodities in bulk, and those requiring special equipment), between the Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, all points in Delaware, restricted to traffic having a prior or subsequent movement by air, for 180 days. Supporting shipper: W. L. Gore & Assoc., Inc., 555 Paper Mill Rd., Newark, Del. 19711. R. G. Hobelmann & Co., Inc., 100 Erickson Ave., Essington, Pa. Alloy Surfaces Company, Inc., 100 S. Justison St., Wilmington, Del. 19899. C. F. Air Freight, Inc., 144-24 156th St., Jamaica, N.Y. 11434. Dever Inc., 223 S. Governor Printz Blvd., Lester, Pa. BDP International, Inc., P.O. Box 202, Essington, Pa. 10929. Send protests to: Peter R. Guman, District Supervisor, Federal Bldg., Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 135821 (Sub-No. 3TA), filed March 14, 1975. Applicant: MADELINE MILESTONE, 4233 Leiper Street, Philadelphia, Pa. 19124. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale or retail department stores*, between Philadelphia, Pa., on the one hand, and, on the other, points in Georgia and Florida, under a continuing contract or contracts with Lional Leisure, Inc., of New York, N.Y., restricted to the transportation of traffic moving from or to the stores and facilities of Lional Leisure, Inc., for 180 days. Supporting shipper: Lional Leisure, Inc., 2951 Grant Avenue, Philadelphia, Pa. 19114. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission,

600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 136220 (Sub-No. 16TA), filed March 21, 1975. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1705 NE. Woodland, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 280 National Foundation Life Bldg., 3535 NW. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, (1) from the plantsites of Southwestern Coal Co., at Spadra, Ark., and Buckhorn Coal Co., Ltd., at Prairie View, Ark., to the plantsites of Kingsford Co., Dothan, Ala., Belle, Mo., and Burnside, Ky., and (2) from the plantsite of Southwestern Coal Co., at Spadra, Ark., to the plantsite of Sherwin-Williams Co., at Coffeyville, Kans., for 180 days. Supporting shippers: Kingsford Co., LeVern N. Forseph, P.O. Box 1033, Louisville, Ky. 40201. Sherwin-Williams Company, Wayne Livingston, Purchasing Agent, P.O. Box 855, Coffeyville, Kans. 67337. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 136989 (Sub-No. 10TA), filed March 14, 1975. Applicant: R. F. BOX, doing business as R. F. BOX TRUCKING, 1401 Dartmouth, NE., Albuquerque, N. Mex. 87106. Applicant's representative: Edwin E. Piper, Jr., 1115 Santa Savings Bldg., Albuquerque, N. Mex. 87102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Floor covering* (except carpeting and rugs), from the plantsites of Amtico Flooring Division, American Bilrite, Inc., at or near Norwood, Mass., and Trenton, N.J., to points in New Mexico, Arizona, Colorado, Utah, California, Washington, Oregon, Montana, Idaho, Nevada, and El Paso County, Tex., for the account of Amtico Flooring Division, American Bilrite, Inc., for 180 days. Supporting shipper: Don Allen, Pacific-Western States Sales Manager, Amtico Flooring Division, 15300 Valley View Avenue, La Mirada, Calif. Send protests to: John H. Kirkemo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1106 Federal Office Bldg., 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 139662 (Sub-No. 1TA), filed March 19, 1975. Applicant: GARLAND D. TOWE, GARLAND W. PIKE, AND BENJAMIN E. SMITH, doing business as TOWE-PIKE GRAIN AND SUPPLY COMPANY, Route 2, Hertford, N.C. 27944. Applicant's representative: Garland D. Towe (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from Nansemond City and Norfolk, Va., to points in Pasquotank, Perquimans, Gates, Hertford, and Northampton Counties, N.C.,

for 180 days. Supporting shipper: Swift Chemical Company, Elizabeth City, N.C. 27909. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 140703 (Sub-No. 1TA), filed March 17, 1975. Applicant: B.C.M. TRUCKING, INC., Route 3, Box 223, Moorhead, Minn. 56560. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beet pilers and parts and attachments for beet pilers*, from the plantsites and storage facilities of C. F. & I. Engineering, Inc., at or near Denver, Colo., to points in North Dakota on and east of U.S. Highway 281 and those points in Minnesota lying on and west of a line beginning at the Minnesota-Iowa border, thence along Minnesota Highway 15 to St. Cloud, Minn., thence along U.S. Highway 10 to Little Falls, Minn., thence along Minnesota Highway 371 to its intersection with U.S. Highway 2, thence along U.S. Highway 71, thence along U.S. Highway 71 to International Falls, Minn. Restriction: Restricted to transportation services to be performed under a contract or continuing contracts with American Crystal Sugar Company, Moorhead, Minn., and Red River Valley Cooperative, Inc., Hillsboro, N. Dak., for 180 days. Supporting shippers: American Crystal Sugar Company, 101 North 3rd St., Moorhead, Minn. 56560. Red River Valley Cooperative, Inc., Box 43, Hillsboro, N. Dak. 58345. Send protests to: J. H. Ambros, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 140721 TA (Amendment), filed March 11, 1975, published in the *FEDERAL REGISTER* issue of March 21, 1975, and republished as amended this issue. Applicant: C. A. PERRY & SON, INC., Route 1, Hobbsville, N.C. 27946. Applicant's representative: Chester A. Zyblut, 1522 K Street NW Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Liquid fertilizer and fertilizer materials*, in bulk, in stainless steel tank vehicles, and (b) *fertilizer and fertilizer materials, dry*, in bulk, in dump vehicles, from Chesapeake, Suffolk and Hopewell, Va., to points in North Carolina, located on and east of U.S. Highways 220 and 1, for 180 days. Supporting shippers: Central Fertilizer Co., Inc., Shawboro, N.C. 27973. Tidewater Chemical Corporation, Route 2, St. Brides Station, Chesapeake, Va. 23322. Swift Chemical Co., Box 7537, Chesapeake, Va. 23324. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611. The purpose of this republication is to change the commodity description.

No. MC 140773 TA, filed March 21, 1975. Applicant: WESTPOINT TRANSPORTATION, INC., 3812 NE. 4th, P.O. Box 206, Renton, Wash. 98055. Applicant's representative: Dwaine E. Griffith (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* in ocean going carriers or leased trailers moving to or from Alaska, from points in Idaho and Washington, to Seattle, Wash., for 180 days. Supporting shipper: A. J. Johnson & Company, 459 E. 15th, Tacoma, Wash. 98401. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

APPLICATION OF PASSENGERS

No. MC 3647 (Sub-No. 461TA), filed March 18, 1975. Applicant: TRANSPORT OF NEW JERSEY, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: John P. Ward (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, (1) Between Glassboro, N.J., and Woodbury, N.J., serving all intermediate points, from Glassboro, N.J., over New Jersey County Highway 553 to Woodbury, N.J., and return over the same route; (2) Between Glassboro, N.J., and Mantua, Mantua Township, N.J., serving all intermediate points from Glassboro, N.J., over New Jersey County Highway 553 (alternate) to junction New Jersey Highway 45, Mantua, Mantua Township, N.J., and return over the same route; (3) Between Mantua, Mantua Township, N.J., serving all intermediate points, from junction New Jersey Highway 45 and unnumbered highways, Mantua, Mantua Township, N.J., over unnumbered highways via Wenonah to junction with New Jersey County Highway 553, Deptford Township, N.J., and return over the same route; (4) Between points within Mantua Township, N.J., serving all intermediate points; (a) from junction of New Jersey County Highway 553 (alternate) and unnumbered highway at Barnsboro over unnumbered highways via Sewell to junction with New Jersey County Highway 553 east of Sewell, N.J., and return over the same route; (b) from junction New Jersey County Highway 552 (alternate) and unnumbered highway immediately north of Pitman, N.J., over unnumbered highways to junction New Jersey County Highway 553 immediately north of Pitman, N.J., and return over the same route; (5) Between points in Pitman, N.J., serving all intermediate points, from the junction New Jersey County Highway 553 (alternate) over local streets to New Jersey County Highway 553 and return over the same route. Applicant intends to tack with MC 3647. Supporting shippers: There are approximately 20 statements of support attached to the application, which may

be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8546 Filed 4-1-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 27, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before April 14, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 21170 (Sub-No. E21), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Powdered milk*, (A) from Bloomer, Wisc., to points in that part of Missouri north and west of a line beginning at the Iowa-Missouri State line and extending along U.S. Highway 63 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line, and to points in that part of Kansas east of U.S. Highway 81; (B) from Lake Mills, Wisc., to points in that part of Kansas on and east of U.S. Highway 81, and those points in that part of Missouri north and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 149 to junction Missouri Highway 11, thence along Missouri Highway 11 to junction Missouri Highway 3, thence along Missouri Highway 3 to junction County Road J, thence along County Road J to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas

State line; (C) from Madison, Wisc., to points in that part of Kansas on and east of U.S. Highway 81, and points in that part of Missouri north and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 5 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Missouri Highway 129, thence along Missouri Highway 129 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Missouri Highway 240, thence along Missouri Highway 240 to junction Missouri Highway 179, thence along Missouri Highway 179 to junction Missouri Highway 87, thence along Missouri Highway 87 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line; (D) from Troy, Wisc., to points in that part of Kansas on and east of U.S. Highway 81, and points in that part of Missouri north and west of a line beginning at the Iowa-Missouri State line and extending along U.S. Highway 63 to junction Missouri Highway 11, thence along Missouri Highway 11 to junction Missouri Highway 3, thence along Missouri Highway 3 to junction Missouri Highway 156, thence along Missouri Highway 156 to junction Missouri Highway 149, thence along Missouri Highway 149 to Goldsberry, thence along County Road J to junction Missouri Highway 129, thence along Missouri Highway 129 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Missouri Highway 87, thence along Missouri Highway 87 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line; and (E) from Waterloo, Wisc., to points in that part of Kansas on and east of U.S. Highway 81, and points in that part of Missouri north and west of a line beginning at the Iowa-Missouri State line and extending along U.S. Highway 63 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Missouri Highway 149, thence along Missouri Highway 149 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Missouri Highway 3, thence along Missouri Highway 3 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 129, thence along Missouri Highway 129 to junction of unnumbered highway, thence along unnumbered highway to junction Missouri Highway 3, thence along Missouri Highway 3 to junction Missouri Highway 87, thence along Missouri Highway 87 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 21170 (Sub-No. E44), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (A) from points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 59 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the North Dakota-Minnesota State line, to points in that part of Indiana on and south of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 40 to junction Indiana Highway 42, thence along Indiana Highway 42 to junction Indiana Highway 142, thence along Indiana Highway 142 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Indiana Highway 44, thence along Indiana Highway 44 to the Indiana-Ohio State line; (B) from points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction Minnesota Highway 13, thence along Minnesota Highway 13 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-North Dakota State line, to points in that part of Indiana on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 40 to the Indiana-Ohio State line; (C) from points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 218 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-North Dakota State line, to points in that part of Indiana on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 460 to the Indiana-Kentucky State line; (D) from points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line, and extending along U.S. Highway 59 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the North Dakota-Minnesota State line, to points in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 35 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West Virginia State line; and (E) from points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S.

Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-North Dakota State line, to points in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 35 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateways of Marshall, Macon, Milan, Carrollton, and Moberly, Mo.

No. MC 106920 (Sub-No. E16) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER February 25, 1975. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dairy products*, as classified under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 46 M.C.C. 23, from Elmira, N.Y., to those points in Florida south of a line beginning at the Florida-Alabama State line and extending along U.S. Highway 90 to junction Florida Highway 247, thence along Florida Highway 247 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Interstate Highway 4, thence along Interstate Highway 4 to junction U.S. Highway 92, thence along U.S. Highway 92 to junction Florida Highway 542, thence along Florida Highway 542 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio. The purpose of this correction is to clarify the highway descriptions.

No. MC 106920 (Sub-No. E31) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER February 25, 1975. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milk, cream, and butter-milk* (except concentrated whole milk and concentrated skim milk), in bulk, in tank vehicles, from points in Wisconsin north of a line beginning at the Minnesota-Wisconsin State line and extending along Wisconsin Highway 77 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 32, thence along Wisconsin Highway 32 to

junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to Lake Michigan, to points in Mississippi east of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 80 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio. The purpose of this correction is to correctly describe the highway description.

No. MC 106923 (Sub-No. E105) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER February 25, 1975. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products*, under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing-House Products*, 49 M.C.C. 623, from points in Missouri on and north of a line beginning at the Illinois-Missouri State line and extending along Missouri Highway 51 to junction Missouri Highway 34, thence along Missouri Highway 34 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 21, thence along Missouri Highway 21 to the Arkansas-Missouri State line, to points in West Virginia (except those on and north of U.S. Highway 50). The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio. The purpose of this correction is to include the destination points.

No. MC 107515 (Sub-No. E22), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Dallas, Tex., and its Commercial Zone to points in Ohio, Indiana, and the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 108449 (Sub-No. E52), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Superior, Wis., to points in Montana. The purpose of this filing is to eliminate the gateways of Wrenshall, Minn., and Jamestown, North Dakota.

No. MC 108449 (Sub-No. E53), filed May 17, 1974. Applicant: INDIANHEAD

TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Superior, Wis., to points in Wyoming. The purpose of this filing is to eliminate the gateways of McGregor, Minn., and Aberdeen, South Dakota.

No. MC 108449 (Sub-No. E51), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Noyes, Minn., to points in Missouri. The purpose of this filing is to eliminate the gateways of Fargo, N. Dak., St. Cloud and Minneapolis, Minn., and Spencer, Iowa.

No. MC 108449 (Sub-No. E54), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Noyes, Minn., to those points in North Dakota on south and west of a line beginning at the Montana-North Dakota State line and extending along Interstate Highway 94 to junction U.S. Highway 85, then U.S. Highway 85 to junction North Dakota Highway 200, then North Dakota Highway 200 to junction U.S. Highway 83, then U.S. Highway 83 to junction Interstate Highway 94, then Interstate Highway 94, to junction U.S. Highway 281, then U.S. Highway 281 to junction North Dakota Highway 46, then North Dakota Highway 46 to junction North Dakota Highway 32, then North Dakota Highway 32 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of Jamestown, North Dakota.

No. MC 108449 (Sub-No. E55), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Superior, Wis., to points in Illinois. The purpose of this filing is to eliminate the gateways of St. Paul, Minn., and Dubuque, Iowa.

No. MC 108449 (Sub-No. E56), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Ap-

plicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Superior, Wis., to points in Nebraska. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., and Spirit Lake, Iowa.

No. MC 108449 (Sub-No. E57), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Pine Creek, Minn., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Mentor, Minn., and Spencer, Iowa.

No. MC 108449 (Sub-No. E58), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Portal, N. Dak., to points in Valley, Daniels, Sheridan, Roosevelt, McCone, Richland, Dawson, Wibaux, Prairie, Custer, Fallon, Powder River, and Carter Counties, Mont. The purpose of this filing is to eliminate the gateway of Toga, N. Dak.

No. MC 108449 (Sub-No. E70), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the terminal of the Williams Bros. Pipe Line Company in Kronenwetter, Marathon County, Wis., to points in Iowa, except those in Clinton, Cedar, Scott, Muscatine, and Louisa Counties, Iowa. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., and Spring Valley, Minn.

No. MC 108449 (Sub-No. E71), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the terminal of Williams Bros. Pipe Line Co., Kronenwetter, Marathon County, Wis., to points in South Dakota. The purpose of this filing is to eliminate the gateways of Eau Claire, Wis., and Minneapolis, Minn.

No. MC 108449 (Sub-No. E72), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the terminal of the Williams Bros. Pipe Line Co., Kronenwetter, Marathon County, Wis., to points in North Dakota. The purpose of this filing is to eliminate the gateway of Superior, Wis., and Wrenshall, Minn.

No. MC 108449 (Sub-No. E73), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from La Crosse, Wis., to points in Montana. The purpose of this filing is to eliminate the gateway of St. Paul, Minn., and Aberdeen, South Dakota.

No. MC 108449 (Sub-No. E74), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicle, from La Crosse, Wis., to points in North Dakota. The purpose of this filing is to eliminate the gateway of St. Paul, Minn.

No. MC 108449 (Sub-No. E75), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from La Crosse, Wis., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Spring Valley, Minn., and Spirit Lake, Iowa.

No. MC 108449 (Sub-No. E84), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petro-chemicals, asphalt, road oil, and tar), in bulk, in tank vehicles, from Peru, Ill., to points within five miles thereof, to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis.

No. MC 108449 (Sub-No. E85), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petro-chemicals, asphalt, road oil, and tar), in bulk, in tank vehicles, from Rockford, Ill., and points within five miles thereof, to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis.

No. MC 108449 (Sub-No. E86), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the Duluth Petroleum Products Terminal and points within two miles thereof, to points in Wyoming, restricted to traffic moving in foreign commerce. The purpose of this filing is to eliminate the gateway of St. Cloud, Minn., and Aberdeen, S. Dak.

No. MC 108449 (Sub-No. E87), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Eau Claire, Wis., and points within 20 miles thereof, to points in Wyoming. The purpose of this filing is to eliminate the gateway of St. Cloud, Minn., and Aberdeen, South Dakota.

No. MC 108449 (Sub-No. E88), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Eau Claire, Wis., and points within 20 miles thereof, to those points in Iowa on and west and north of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 52 to junction Iowa Highway 150, then Iowa Highway 150 to junction Iowa Highway 154, then Iowa Highway 154 to junction Iowa Highway 3, then Iowa Highway 3 to junction Iowa Highway 136, then Iowa Highway 136 to the Iowa-Illinois State line. The purpose of this filing is to eliminate the gateway of Spring Valley, Minn.

No. MC 108449 (Sub-No. E89), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Eau Claire, Wis., and points within 20 miles thereof to those points in Illinois on and south and west of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 52 to junction U.S. Highway 51, thence U.S. Highway 51 to junction U.S. Highway 6, thence U.S. Highway 6 to junction Illinois Highway 47, thence Illinois Highway 47 to junction Illinois Highway 17, then Illinois Highway 17 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateways of Winona, Minn., La Crosse, Wis., and Dubuque, Iowa.

No. MC 110525 (Sub-No. E1029) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER January 23, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Water softening compounds*, dry, in bulk, in tank vehicles, from Nashua, N.H., to points in Delaware, Maryland, the District of Columbia, Alabama, Richmond County, Ga., Iowa, Minnesota, Missouri, Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Union, and Warren Counties, N.J., to points in that part of Wisconsin on and north of a line beginning at La Crosse, thence along U.S. Highway 16 to Portage, thence along Wisconsin Highway 33 to junction Wisconsin Highway 68, thence along Wisconsin Highway 68 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to Sheboygan. The purpose of this filing is to eliminate the gateways of Springfield, Mass., Port Ivory, Staten Island, N.Y., Newark, N.J., Atlanta, Ga., and Lima, Pa. The purpose of this correction is to clarify the territorial destinations.

No. MC 110817 (Sub-No. E16), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in

connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Arkansas, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E17), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Mississippi, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E18), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation,

and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Alabama, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E19), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Wyoming, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E20), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's

representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Florida, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E21), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by 1. *Machinery, materials, supplies and equipment*, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells; 3. *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between

points in Arkansas, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E22), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum;* 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells;* 3. *Machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Louisiana, on the one hand, and, on the other, points in Colorado.* The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 110817 (Sub-No. E23), filed May 13, 1974. Applicant: E. L. FARMER & COMPANY, Odessa, Texas. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Texas 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Machinery, materials, supplies and equipment, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum;* 2. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities to or from holes or wells;* 3. *Machinery, equipment, materials, and supplies used in or in connection with the construction, operation,*

repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Mississippi, on the one hand, and on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of any point in Oklahoma.

No. MC 114211 (Sub-No. E949), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof (except commodities the transportation of which because of size or weight, requires the use of special equipment, and except commodities described in Mercer Extension—Oil Field Commodities, 74 M.C.C. 459), from points in that part of Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 75 to junction Indian Nation Turnpike, thence along Indian Nation Turnpike to the Oklahoma-Texas State line, to points in that part of Wisconsin on and north of a line beginning at the Wisconsin-Minnesota State line extending along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction Wisconsin Highway 47, thence along Wisconsin Highway 47 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Lake Michigan; to points in that part of New Mexico on and west of a line beginning at the New Mexico-Colorado State line extending along Interstate Highway 25 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction New Mexico Highway 68, thence along New Mexico Highway 68 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction New Mexico Highway 90, thence along New Mexico Highway 90 to junction U.S. Highway 80, thence along U.S. Highway 80 to the New Mexico-Arizona State line; to points in that part of Nebraska on and west of a line beginning at the Nebraska-South Dakota State line extending along U.S. Highway 385 to junction Nebraska Highway 19, thence along Nebraska Highway 19 to the Nebraska-Colorado State line; to points in that part of South Dakota on and north of a line beginning at the South Dakota-North Dakota State line extending along U.S. Highway 81 to junction South Dakota Highway 23, thence*

along South Dakota Highway 23 to junction South Dakota Highway 10, thence along South Dakota Highway 10 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State line; to points in that part of Colorado on and west of a line beginning at the Colorado-Nebraska State line extending along Colorado Highway 113, thence along Colorado Highway 113 to junction U.S. Highway 138, thence along U.S. Highway 138 to junction Colorado Highway 71, thence along Colorado Highway 71 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line; to points in that part of Minnesota on and north of a line beginning at the Wisconsin-Minnesota State line extending along Minnesota Highway 210 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to the Minnesota-North Dakota State line; and to points in the Upper Peninsula of Michigan, North Dakota, Montana, Wyoming, Utah, Arizona, Nevada, Idaho, Washington, Oregon, and California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E950), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery and parts thereof, from Pembina, N. Dak., to points in Arizona, Missouri, Kentucky, North Carolina, New Mexico, Arkansas, Tennessee, South Carolina, Texas, Louisiana, Mississippi, Georgia, Oklahoma, Illinois, Alabama, Florida, Kansas, Indiana, Ohio, to points in that part of Utah on and south of a line beginning at the Nevada-Utah State line extending along U.S. Highway 6 to junction Utah Highway 26, thence along Utah Highway 26 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Utah Highway 26, thence along Utah Highway 26 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 29, thence along Utah Highway 29 to junction Utah Highway 10, thence along Utah Highway 10 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Colorado State line; to points in that part of Nevada on and south of a line beginning at the California-Nevada State line extending along U.S. Highway 6 to the Nevada-Utah State line; to points in*

that part of California on and south of a line beginning at San Francisco, Calif., extending along Interstate Highway 80 to junction California Highway 17, thence along California Highway 17 to junction Interstate Highway 580, thence along Interstate Highway 580 to junction Interstate Highway 205, thence along Interstate Highway 205 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line; to points in that part of Nebraska on and south of a line beginning at the Colorado-Nebraska State line extending along U.S. Highway 34 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; to points in that part of Colorado on and south of a line beginning at the Utah-Colorado State line extending along U.S. Highway 6 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Colorado-Nebraska State line; to points in that part of Iowa on and east of a line beginning at the Nebraska-Iowa State line extending along Iowa Highway 2 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 39, thence along Iowa Highway 39 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 4, thence along Iowa Highway 4 to the Iowa-Minnesota State line; to points in that part of Wisconsin on and south of a line beginning at the Minnesota-Wisconsin State line extending along Wisconsin Highway 70 to Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction U.S. Highway 8, thence along U.S. Highway 8 to the Wisconsin-Michigan State line; and to points in that part of the Upper Peninsula of Michigan on and south of a line extending along U.S. Highway 8 to junction U.S. Highway 2, thence along U.S. Highway 2 to Escanaba, Mich., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E952), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road building equipment*, from ports of entry between and including Houston and Brownsville, Tex., to points in that part of Wisconsin on and north of a line beginning at Prairie du Chien, extending along U.S. Highway 18 to junction Wisconsin Highway 23, thence along Wisconsin Highway 60 to junction

tion U.S. Highway 14, thence along U.S. Highway 14 to junction Wisconsin Highway 58, thence along Wisconsin Highway 58 to junction Wisconsin Highway 154, thence along Wisconsin Highway 154 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to junction Wisconsin Highway 68, thence along Wisconsin Highway 68 to junction U.S. Highway 151, thence along U.S. Highway 151 to junMaintowa, Wis., and to points in that part of Montana on and north of a line beginning at the Montana-North Dakota State line extending along U.S. Highway 10 to junction Montana Highway 200, thence along Montana Highway 200 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Idaho-Montana State line; and to points in North Dakota and the Upper Peninsula of Michigan, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., and points in Kansas.

No. MC 114211 (Sub-No. E953), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between points in that part of Montana on and north of a line beginning at the Idaho-Montana State line extending along U.S. Highway 2 to junction Montana Highway 35, thence along Montana Highway 35 to junction Montana Highway 209, thence along Montana Highway 209 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 272, thence along Montana Highway 272 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 91, to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 200S, thence along Montana Highway 200S to junction U.S. Highway 10, thence along U.S. Highway 10 to the North Dakota-Montana State line, and points in that part of North Dakota on and north of a line beginning at the Montana-North Dakota State line extending along U.S. Highway 10 to junction North Dakota Highway 22, thence along North Dakota Highway 22 to junction U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Texas on and east of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 283 to junction U.S. Highway 180, thence along U.S. Highway 180 to

junction Texas Highway 351, thence along Texas Highway 351 to junction U.S. Highway 277, thence along U.S. Highway 277 to Del Rio, Tex., and points in that part of Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 281 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 152, thence along Oklahoma Highway 152 to junction Oklahoma Highway 44, thence along Oklahoma Highway 44 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateways of Canton, S. Dak., and points in Kansas.

No. MC 115826 (Sub-No. E11) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, August 28, 1974. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 231 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Jefferson County, Idaho to those points in Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line and extending south along U.S. Highway 81 to its junction with the H. E. Bailey Turnpike, thence southwest along the H. E. Bailey Turnpike to the Oklahoma-Texas State line, including service to all cities located on the above-described lines and their commercial zones. The purpose of this filing is to eliminate the gateways of Joplin, Mo., and points in Missouri and Kansas (Chautauqua) within 100 miles thereof. The purpose of this correction is to correctly describe the destination territories.

No. MC 115826 (Sub-No. E15) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, August 26, 1974, republished in the FEDERAL REGISTER, October 17, 1974. Applicant: W. J. DIGBY INC., P.O. Box 5088, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen, fresh, and cured meats and frozen meat products*, from Denver, Colo., to points in that part of Oregon on and west of a line beginning at the California-Oregon State line and extending along U.S. Highway 97 to Bend, thence along U.S. Highway 20 to junction Interstate Highway 5, thence along Interstate Highway 5 to the Oregon-Washington State line, and points in that part of Washington on and west of a line beginning at the Washington-Oregon State line and extending along Interstate Highway 5 to Olympia, thence along U.S. Highway 101 to Maynard and the Puget Sound. The purpose of this filing is to eliminate the

gateway of Alturas, Calif. The purpose of this correction is to correctly describe the destination territory.

No. MC 115826 (Sub-No. E46) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, August 30, 1974, republished in the FEDERAL REGISTER, October 17, 1974. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, from Brownsville and Harlingen, Tex., to points in Oregon (except points in those portions of Malheur and Harvey Counties south of U.S. Highway 20), points in Washington (except points in Stevens, Pend Oreille, Ferry Counties, and Okanogan County excluding Coulee Dam), and points in that part of Idaho bounded by a line beginning at the Washington-Idaho State line at Lewiston and extending along U.S. Highway 95 to Coeur d'Alene, thence along Interstate Highway 90 to the Washington-Idaho State line, thence along the Washington-Idaho State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Los Angeles, Calif. The purpose of this correction is to correctly describe the destination territory.

No. MC 117344 (Sub-No. E89), filed May 19, 1974. Applicant: THE MAXWELL COMPANY, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aluminum sulphate and rosin sizing*, in bulk, in tank vehicles, from points in Butler County, Ohio, to points in Kentucky on and west of a line beginning at Louisville, Ky., and extending along Interstate Highway 65 to Elizabethtown, Ky., thence along Kentucky Highway 61 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Jackson County, Ind.

No. MC 136166 (Sub-No. E30), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in California to points in Washington east of Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties, Wash., restricted against the transportation of petroleum products, from points in California to points in Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties, Ore. The purpose of this filing is to eliminate the gateway of Blakeley, Ore.

No. MC 136166 (Sub-No. E31), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative:

E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petroleum products*, in bulk, in tank vehicles, between points in California, on the one hand, and, on the other, points in that part of Washington west of the Cascade Mountains, restricted against the transportation of petroleum products, from points in California to points in Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties, Ore. The purpose of this filing is to eliminate the gateway of Portland, Ore.

No. MC 136166 (Sub-No. E33), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in California to points in that part of Idaho in and north of Idaho County, restricted against the transportation of petroleum products, from points in California to points in Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties, Ore. The purpose of this filing is to eliminate the gateway of Blakeley, Ore.

No. MC 136166 (Sub-No. E34), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 in bulk, in tank vehicles, from Sparles and Fulton, Nev., to points in that part of Washington in and east of Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties, restricted against the transportation of petroleum products, from points in California to points in Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties, Ore. The purpose of this filing is to eliminate the gateways of points in Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, and Mono Counties, Calif., and Blakeley, Ore.

No. MC 136166 (Sub-No. E35), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petroleum products*, in bulk, in tank vehicles, from Attalla, Wash., to points in California. The purpose of this filing is to eliminate the gateways of points in Oregon east of the summit of the Cascade Mountains.

No. MC 136166 (Sub-No. E36), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes,

transporting: *Petroleum products*, in bulk, in tank vehicles, from points within 5 miles of Pasco, Wash., to points in California. The purpose of this filing is to eliminate the gateways of points in Oregon in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties.

No. MC 136166 (Sub-No. E37), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid hydrogen), in bulk, in tank vehicles, from Moses Lake, Wash., and points within 5 miles thereof, to points in California. The purpose of this filing is to eliminate the gateways of points in Wasco, Sherman, Gilliam, Morrow, Umatilla, Wallawa, Union, and Baker Counties, Ore.

No. MC 136166 (Sub-No. E38), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in Whitman, Garfield, Columbia, and Asotin Counties, Wash., to points in California. The purpose of this filing is to eliminate the gateways of points in Oregon.

No. MC 136166 (Sub-No. E39), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Sparks and Fallon, Nev., to points in that part of Washington west of the Cascade Mountains, restricted against the transportation of petroleum products, from points in California to points in Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties, Ore. The purpose of this filing is to eliminate the gateways of points in Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, and Mono Counties, Calif., and Portland, Ore.

No. MC 136166 (Sub-No. E40), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Fallon, Nev., to points in Oregon (except Curry, Josephine, Jackson, Lake, Klamath, Douglas, Harney, Malheur, Crook, Wheeler, and Baker

Counties). The purpose of this filing is to eliminate the gateways of points in Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, and Mono Counties, Calif.

No. MC 136166 (Sub-No. E41), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Sparks, Nev., to points in Oregon (except Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties). The purpose of this filing is to eliminate the gateways of points in Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, and Mono Counties, Calif.

No. MC 136166 (Sub-No. E44), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum products*, in bulk, in tank vehicles, from points in that part of Washington located west of the Cascade Mountains to points in Storey, Lyon, and Churchill Counties, Nev., located on and north of U.S. Highway 50 and to Tonopah, Nev. The purpose of this filing is to eliminate the gateways of Portland, Oreg., and Sacramento, Calif.

No. MC 136166 (Sub-No. E46), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Clatsop, Columbia, Tillamook, Washington, Multnomah, Clackamas, Yamhill, Marion, Polk, Lincoln, Benton, Linn, Douglas, Coos, Curry, Josephine and Jackson Counties, Oreg., to points in that part of Nevada on and south of U.S. Highway 95 and points in Esmeralda County. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake Counties, Oreg., and Woodlawn, Calif.

No. MC 136166 (Sub-No. E47), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Douglas, Coos, Curry, and Josephine Counties, Oreg., to Ely, Nev., and points within 25 miles thereof. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake Counties, Oreg., and Woodlawn, Calif.

No. MC 136166 (Sub-No. E48), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from points in that part of Washington located in and east of Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties (except Walla Walla, Columbia, Garfield, and Asotin Counties), and from points in Clatsop, Tillamook, Lincoln, Coos, and Curry Counties, Oreg., to points in Carson City and Douglas Counties, Nev. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake Counties, Oreg., and Woodland, Calif.

No. MC 136166 (Sub-No. E49), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from points in Okanogan, Ferry, Stevens, Chelan, Douglas, Lincoln, Spokane, and Pend Oreille Counties, Wash., to Reno, Nev., restricted against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake County, Oreg., and Woodland, Calif.

No. MC 136166 (Sub-No. E50), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles, between points in that part of Washington located in and east of Benton, Grant, Douglas, Chelan, and Okanogan Counties, on the one hand, and, on the other, points in California (except Del Norte, Siskiyou, Humboldt, Trinity, and Shasta Counties). The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E51), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Reedsport, Oreg., and points in that part of Kittitas County, Wash., located on and east of U.S. Highway 97 to points in Churchill County, Nev. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake Counties, Oreg., and Woodland, Calif.

No. MC 136166 (Sub-No. E52), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative:

E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid later*, in bulk, in tank vehicles, from points in California (except Del Norte, Lassen, Modoc, Siskiyou, and San Bernardino, east of Barstow Counties), to points in Ohio. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC 136166 (Sub-No. E53), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles (except fertilizer and fertilizer solutions, and liquid hydrogen, oxygen, and nitrogen) between points in Klickitat, Yakima, Kittitas, Snohomish, Skagit, and Whatcom Counties, Wash., on the one hand, and, on the other, points in that part of California in and south of San Luis Obispo, Kings, Tulare, Inyo, and Mono Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Iowa.

No. MC 136166 (Sub-No. E54), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles (except fertilizer and fertilizer solutions, and liquid hydrogen, oxygen, and nitrogen) between points in that part of Washington west of the Cascade Mountains (except Whatcom, Skagit, and Snohomish Counties), on the one hand, and, on the other, points in that part of California located on and east of U.S. Highway 395 in San Diego, Riverside, San Bernardino, and Imperial Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E55), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea and dry fertilizer*, in bulk, in tank or hopper type vehicles, from points in Oregon (except Clatsop and Columbia Counties), from points in that part of Idaho located south of the southern boundary of Idaho County, and from points in Montana to points in that part of Grays Harbor, Mason, Thurston, Pacific, Wahkiakum, Lewis, Cowlitz, Clark, Skamania, Klickitat, and Yakima (excluding the city of Yakima) Counties, Wash., west of U.S. Highway 97, restricted against the transportation of shipments originating at or destined to points in Canada and traffic moving to Thurston County, Wash., is restricted against origins in Missoula, Flathead, Lincoln, Sanders, Lake, and Mineral

Counties, Mont. The purpose of this filing is to eliminate the gateway of Portland, Oreg.

No. MC 136166 (Sub-No. E56), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from points in California to points in Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC 136166 (Sub-No. E57), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Urean and dry fertilizer*, in bulk, in tank or hopper type vehicles, from points in Clatsop and Columbia Counties, Oreg., to points in that part of Washington located west of U.S. Highway 97 (except Pacific and Grays Harbor Counties, restricted against the transportation of shipments originating at or destined to points in Canada). The purpose of this filing is to eliminate the gateways of points in Columbia County, Oreg.

No. MC 136166 (Sub-No. E58), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from points in California (except those in San Bernardino County east of Barstow) to points in Georgia, North Carolina, and Tennessee. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC 136166 (Sub-No. E59), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from points in Alameda, Fresno, Imperial, Kern, Kings, Los Angeles, Merced, Montgomery, Orange, Riverside, San Benito, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Tulare, Ventura, and San Bernardino (except east of Barstow) Counties, Calif., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC 136166 (Sub-No. E60), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles (except fertilizer

and fertilizer solutions, and liquid hydrogen, oxygen, and nitrogen, between points in Ravalli, Granite, Missoula, Flathead, Teton, Pondera, Toole, Glacier, Lincoln, Sanders, Lake, and Mineral Counties, Mont., on the one hand, and, on the other, points in California (except points on U.S. Highway 95). The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E61), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles (except fertilizer and fertilizer solutions, and liquid hydrogen, oxygen, and nitrogen), between points in Cascade, Chouteau, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Roosevelt, and Sheridan Counties, Mont., on the one hand, and, on the other, points in California (except San Bernardino, Orange, Riverside, Imperial, and San Diego Counties). The purpose of this filing is to eliminate the gateway of points in Union County, Oreg.

No. MC 136166 (Sub-No. E62), filed May 18, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from points in Clatsop and Columbia Counties, Oreg., to points in that part of Washington located west of U.S. Highway 97 (except Pacific and Grays Harbor Counties), restricted against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways of points in Columbia County, Oreg.

No. MC-136166 (Sub-No. E63), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from points in California (except Del Norte, Lassen, Modoc, Siskiyou, and San Bernardino (east of Barstow) Counties to points in Indiana. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC-136166 (Sub-No. E64), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Urea and dry fertilizer*, in bulk, in tank or hopper type vehicles, from points in Oregon (except Clatsop, Columbia, Umatilla, Union, Baker, Malheur, and Walla Walla Counties, and from points in that part of Idaho south of the southern boundary of Idaho County, and

from points in that part of Montana in and east of Valley, McCove, Prairie, Custer, and Powder River Counties, to points in Kittitas, Chelan, Okanogan, Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce, Kitsap, Mason, Jefferson, and Clallam Counties, Wash., that are located west of U.S. Highway 97. Restricted against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateway of Portland, Oreg.

No. MC 136166 (Sub-No. E65), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles, between points in Carbon, Stillwater, Golden Valley, Musselshell, Petroleum, Big Horn, Yellowstone, Treasure, Rosebud, Garfield, Powder River, Custer, Carter, Fallon, Prairie, McCove, Dawson, Willbax, and Richland Counties, Mont., on the one hand, and, on the other, points in Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, Colusa, Sonoma, Napa, Marion, Contra Costa, Alameda, San Mateo, Santa Clara, Santa Cruz, San Benito, and Monterey Counties, Calif. The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E66), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles, between points in Gallatin, Park, and Sweet Grass Counties, Mont., on the one hand, and, on the other, points in Modoc, Siskiyou, Del Norte, Humboldt, Trinity, Shasta, Lassen, Plumas, Tehama, Mendocino, Glenn, and Butte Counties, Calif. The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E67), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Oreg. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids*, in bulk, in tank vehicles between points in Beaverhead, Madison, Deer Lodge, Silver Bow, Jefferson, Broadwater, Powell, Lewis and Clark, Wheatland, and Meagher Counties, Mont., on the one hand, and, on the other, points in California in California (except points in and south of Santa Barbara, Kern, Inyo, and Mono Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Oreg.

No. MC 136166 (Sub-No. E68), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid epoxy resin*, in bulk, in tank vehicles, from Riverview, Ohio, to points in California. The purpose of this filing is to eliminate the gateway of the site of the Thokol installation near Brigham City, Utah.

No. MC-136166 (Sub-No. E69), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid weed killing chemicals*, in bulk, in tank vehicles, from points in California (except those in San Bernardino County, east of Barstow and Riverside County), to Bayonne, N.J. The purpose of this filing is to eliminate the gateway of Richmond, Calif.

No. MC-136166 (Sub-No. E70), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compound*, in bulk, in tank vehicles, from points in California (except Lassen and Modoc Counties), to Toledo, Ohio. The purpose of this filing is to eliminate the gateway of Long Beach, Calif.

No. MC 136166 (Sub-No. E71), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cutting fluids* (other than those derived from petroleum), in bulk, in tank vehicles, from Cincinnati, Ohio, to points in California (except Inyo, San Bernardino, Riverside, Los Angeles, Orange, San Diego and Imperial Counties). The purpose of this filing is to eliminate the gateway of San Jose, Calif.

No. MC 136166 (Sub-No. E73), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Phenol*, in bulk, in tank vehicles, from points in that part of California located in and north of Monterey, San Benito, Fresno, Madera, Tuolumne, and Alpine Counties to Luling and West Lake Charles, La., and Port Neches, Tex. The purpose of this filing is to eliminate the gateway of Avon, Calif.

No. MC 136166 (Sub-No. E75), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative:

E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Molten maleic anhydride*, in bulk, in tank vehicles, from points in California except Imperial, Inyo, Riverside, San Bernardino, and San Diego Counties, to Perry, Ohio. The purpose of this filing is to eliminate the gateway of Richmond, Calif.

No. MC 136166 (Sub-No. E76), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Synthetic resins*, in bulk, in tank vehicles, from points in California, except Lassen, Modoc, and San Bernardino, east of Barstow Counties to Sand Springs, Okla. The purpose of this filing is to eliminate the gateway of Anaheim, Calif.

No. MC 136166 (Sub-No. E77), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compounds*, in bulk, in tank vehicles, from points in California to West Springfield, Mass. The purpose of this filing is to eliminate the gateway of Hawthorne, Calif.

No. MC 136166 (Sub-No. E78), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, (1) between points in that part of California on and north of a line beginning at and including San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, on the one hand, and, on the other, points in Montana and points in that part of Washington located east of U.S. Highway 97, restricted against the transportation of shipments originating at or destined to points in Canada; (2) between points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, on the one hand, and, on the other, points in that part of Idaho located north of the southern boundary of Idaho County, restricted against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways of (1) points in Klamath and Lake Counties, Ore., (2) points within 3 miles of Finley, Wash.

No. MC 136166 (Sub-No. E79), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, (1) between points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, except points in Del Norte, Humboldt, and Mendocino Counties, on the one hand, and, on the other, points in Oregon, except points west of Wasco, Jefferson, Deschutes, and Klamath Counties, and points in that part of Idaho on and south of the southern boundary of Idaho County; (2) between points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, except points in Modoc, Lassen, and Plumas Counties, on the one hand, and, on the other, points in Oregon, except points in Baker, Malheur, and Harney Counties and that part of Idaho located on and south of the southern boundary of Idaho County, except points in and south of Adams, Valley, Custer, and Blaine Counties; (3) between points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, except points in Lake, Colusa, Sutter, Yolo, Sacramento, Solano, Napa, Sonoma, Marin, Contra Costa, San Joaquin, Alameda, and San Francisco Counties, on the one hand, and, on the other, points in Oregon and points in that part of Idaho located on and south of the southern boundary of Idaho County, except points in, south and east of Twin Falls, Gooding, Comas, Blaine, Power, Bannock, and Caribou Counties; (4) between points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line, except points in Siskiyou, Shasta, Glenn, Butte, Lake, Colusa, Sutter, Yolo, Sacramento, Solano, Napa, Sonoma, Marin, Contra Costa, San Joaquin, Alameda, and San Francisco Counties, on the one hand, and, on the other, points in Oregon, except points in Malheur, Douglas, Coos, Curry, Josephine, and Jackson Counties, and points in that part of Idaho located on and south of the southern boundary of Idaho County. The purpose of this filing is to eliminate

the gateways of points in Klamath and Lake Counties.

No. MC 136166 (Sub-No. E80), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from points in California to points in Delaware. The purpose of this filing is to eliminate the gateway of Torrance, Calif.

No. MC 136166 (Sub-No. E81), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from points in that part of California located on and north of a line beginning at San Francisco, thence along U.S. Highway 50 to junction California Highway 120, thence along California Highway 120 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line to points in that part of Washington located west of U.S. Highway 97, restricted against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways of points in Klamath and Lake Counties, Ore., and points in Columbia County, Ore.

No. MC 136166 (Sub-No. E82), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil treating compounds*, in bulk, in tank vehicles, from points in that part of Washington west of the Cascade Mountains to Pascagoula, Miss. The purpose of this filing is to eliminate the gateways of Portland, Ore., and Brea, Calif.

No. MC 136166 (Sub-No. E83), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil treating compounds*, in bulk, in tank vehicles, from points in Oregon, except Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties to Pascagoula, Miss. The purpose of this filing is to eliminate the gateway of Brea, Calif.

No. MC 136166 (Sub-No. E84), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil treating compounds*, in bulk, in tank vehicles, from

points within 5 miles of Pasco, Wash., to Pascagoula, Miss. The purpose of this filing is to eliminate the gateways of Burns, Ore., and Brea, Calif.

No. MC 136166 (Sub-No. E86), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Nevada, except Elko County to points in that part of Washington west of the Cascade Mountains. The purpose of this filing is to eliminate the gateways of points in California and Portland, Ore.

No. MC 136166 (Sub-No. E87), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Elko and Humboldt Counties, Nev., to points in Clatsop, Tillamook, Lincoln, Lane, and Coos Counties, Ore. The purpose of this filing is to eliminate the gateway of points in California.

No. MC 136166 (Sub-No. E88), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Washoe County, Nev., to points in Oregon, except Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties. The purpose of this filing is to eliminate the gateways of points in California.

No. MC 136166 (Sub-No. E89), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Nevada, except Humboldt and Elko Counties to points in Oregon, except Curry, Josephine, Jackson, Lake, Klamath, Douglas, Harney, and Malheur Counties. The purpose of this filing is to eliminate the gateway of points in California.

No. MC 136166 (Sub-No. E90), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, (1) from points in California to points in Montana, (2) from points in California to points in that part of Washington located on and east of U.S. Highway 97, and (3) from points in California to points in that part of Washington located west of

U.S. Highway 97. The purpose of this filing is to eliminate the gateways of (1) points in that part of Idaho on and south of the southern boundary of Idaho County, (2) points in Oregon, and (3) Portland, Ore.

No. MC 136166 (Sub-No. E91), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, asphalt emulsion, and road oil*, in bulk, in tank vehicles, from Steamboat Springs, Nev., to points in that part of Washington located west of the Cascade Mountains. The purpose of this filing is to eliminate the gateways of Alturas, Calif., and Portland, Ore.

No. MC 136166 (Sub-No. E92), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, asphalt emulsion, and road oil*, in bulk, in tank vehicles, from Steamboat Springs, Nev., to points in that part of Washington located in and east of Skamania, Kittitas, Chelan, Klickitat, and Okanogan Counties. The purpose of this filing is to eliminate the gateways of Alturas, Calif., and Blakeley, Ore.

No. MC 136166 (Sub-No. E93), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, asphalt emulsion, and road oil*, in bulk, in tank vehicles, from Steamboat Springs, Nev., to points in Oregon, except Curry, Josephine, Jackson, Lake, Klamath, and Douglas Counties. The purpose of this filing is to eliminate the gateway of Alturas, Calif.

No. MC 136166 (Sub-No. E94), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Glenn, Butte, Lake, Colusa, Sonoma, Marin, Contra Costa, Alameda, San Mateo, Santa Cruz, Monterey, and San Luis Obispo Counties, Calif., to points in Montana. The purpose of this filing is to eliminate the gateways of Blakeley, Ore., and points in Whitman, Garfield, Columbia, and Asotin Counties, Wash.

No. MC 136166 (Sub-No. E95), filed May 10, 1974. Applicant: CF TANK

LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in California to points in that part of Washington located east of Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties. The purpose of this filing is to eliminate the gateway of Blakeley, Ore.

No. MC 136166 (Sub-No. E96), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in California, except points in Imperial County and points east of U.S. Highway 395 in San Bernardino and Riverside Counties to points in Lincoln, Sanders, Mineral, Missoula, Flathead, Lake, Glacier, Pondera, Teton, Toole, Liberty, Hill, Chouteau, Cascade, Blaine, Phillips, Valley, Daniels, Roosevelt, and Sheridan Counties, Mont. The purpose of this filing is to eliminate the gateways of Blakeley, Ore., and points in Whitman, Garfield, Columbia, and Asotin Counties, Wash.

No. MC 136166 (Sub-No. E97), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in California, except Del Norte, Siskiyou, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Glenn, Butte, Lake, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Sonoma, Napa, Yolo, Marin, Solano, Sacramento, El Dorado, San Mateo, Santa Clara, Alameda, Contra Costa, San Joaquin, Calaveras, Amador, Stanislaus, Merced, Mariposa, Alpine and Tuolumne, to points in Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties, Wash. The purpose of this filing is to eliminate the gateway of Blackly, Ore.

No. MC 136166 (Sub-No. E98), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points within 5 miles of Pasco, Wash., to points in California. The purpose of this filing is to eliminate the gateway of Pendleton, Ore.

No. MC 136166 (Sub-No. E99), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Attalla, Wash., to points in California. The purpose of this filing is to eliminate the gateways of points in Oregon east of the summit of the Cascade Mountains.

No. MC 136166 (Sub-No. E100), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in Whitman, Garfield, Columbia, and Asotin Counties, Wash., to points in California. The purpose of this filing is to eliminate the gateways of points in Oregon.

No. MC 136166 (Sub-No. E101), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Sparks and Fallon, Nev., to points in that part of Washington located in and east of Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties, Wash. The purpose of this filing is to eliminate the gateways of Alturas, Calif., and Blakeley, Ore.

No. MC 136166 (Sub-No. E102), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Moses Lake, Wash., and points within 5 miles thereof to points in California. The purpose of this filing is to eliminate the gateways of points in Wasco, Sherman, Gilliam, Morrow, Amata, Wallawa, Union, and Baker Counties, Ore.

No. MC 136166 (Sub-No. E104), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Sparks and Fallon, Nev., to points in that part of Washington west of the Cascade

Mountains. The purpose of this filing is to eliminate the gateway of Alturas, Calif., and Portland, Ore.

No. MC 136166 (Sub-No. E105), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Fallon, Nev., to points in Oregon, except Curry, Josephine, Jackson, Lake, Klamath, Douglas, Harney, Malheur, Crook, Wheeler, and Baker Counties. The purpose of this filing is to eliminate the gateway of Alturas, Calif.

No. MC 136166 (Sub-No. E106), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Sparks, Nev., to points in Oregon, except Curry, Josephine, Jackson, Zabe, Klamath, and Douglas Counties. The purpose of this filing is to eliminate the gateway of Alturas, Calif.

No. MC 136166 (Sub-No. E107), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Carbon, Stillwater, the gateways of points in Union County, Golden Valley, Musselshell, Petroleum, Big Horn, Yellowstone, Treasure, Rosebud, Garfield, Powder River, Custer, Carter, Fallon, Prairie, McCone, Dawson, Wilbax, and Richland Counties, Mont., on the one hand, and, on the other, points in Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake Colusa, Sonoma, Napa, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Santa Cruz, San Benito, and Monterey Counties, Calif. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E108), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in that part of Washington located in and east of Benton, Grant, Douglas, Chelan, and Okanogan Counties, on the one hand, and,

on the other, points in California, except Del Norte, Siskiyou, Humboldt, Trinity and Shasta Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E109), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in that part of Washington located west of the Cascade Mountains, except Whatcom, Skagit, and Snohomish Counties, on the one hand, and, on the other, points in San Diego, Riverside, San Bernardino, Imperial Counties, Calif., located on and east of U.S. Highway 395. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E110), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Cascade, Chouteau, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Roosevelt, and Sheridan Counties, Mont., on the one hand, and, on the other, points in California, except points in San Bernardino, Orange, Riverside, Imperial, and San Diego Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E111), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Klickitat, Yakima, Kittitas, Snohomish, Skagit, Whatcom Counties, Wash., on the one hand, and, on the other, points in that part of California located in and south of San Luis Obispo, Kings, Tulare, Inyo, and Mono Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E112), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative:

E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Beaverhead, Madison, Deer Lodge, Silver Bow, Jefferson, Broadwater, Powell, Lewis and Clark, Wheatland, and Meagher Counties, Mont., on the one hand, and, on the other, points in California, except points in and south of Santa Barbara, Kern, Inyo, and Mono Counties. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E113), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Gallatin, Park, and Sweet Grass Counties, Mont., on the one hand, and, on the other, points in Modoc, Siskiyou, Del Norte, Humboldt, Trinity, Shasta, Lassen, Plumas, Tehama, Mendocino, Glenn, and Butte Counties, Calif. The purpose of this filing is to eliminate the gateway of points in Union County, Ore.

No. MC 136166 (Sub-No. E114), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in Ravalli, Granite, Missoula, Flathead, Teton, Pondera, Toole, Glacier, Lincoln, Sanders, Lake, and Mineral Counties, Mont., on the one hand, and, on the other, points in California, except points on U.S. Highway 95. The purpose of this filing is to eliminate the gateways of points in Union County, Ore.

No. MC 136166 (Sub-No. E115), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, between points in California, on the one hand, and, on the other, points in that part of Washington located west of the

Cascade Mountains. The purpose of this filing is to eliminate the gateway of Portland, Ore.

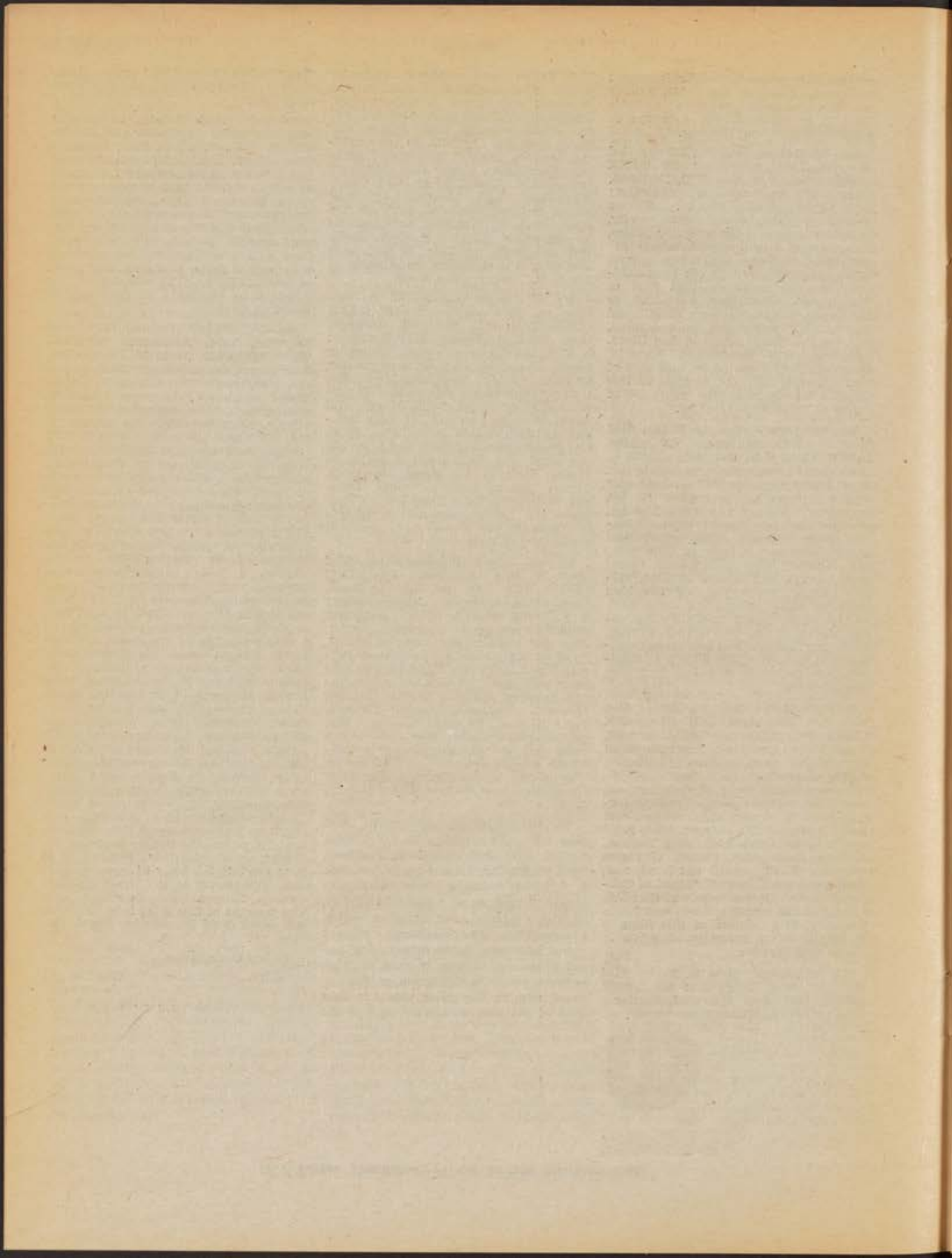
No. MC 136166 (Sub-No. E116), filed May 10, 1974. Applicant: CF TANK LINES, INC., P.O. Box 3062, Portland, Ore. 97208. Applicant's representative: E. V. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from points in California to points in that part of Idaho located in and north of Idaho County. The purpose of this filing is to eliminate the gateway of Blakeley, Ore.

No. MC 136247 (Sub-No. E1), filed May 28, 1974. Applicant: WRIGHT TRUCKING, INC., 1303 10th Street SE., Jamestown, North Dakota 58401. Applicant's representative: Gerald D. Wright (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and articles* dealt in by wholesale beverage distributors, (1) from Minneapolis and St. Paul, Minn. and La Crosse, Wis. to points in that part of North Dakota located on and west of a line beginning at the South Dakota-North Dakota State line thence along U.S. Highway 281 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the North Dakota-Canada International Boundary line; (2) from Milwaukee, Wis. to points in that part of North Dakota located on and west of a line beginning at the South Dakota-North Dakota State line thence along North Dakota Highway to junction North Dakota Highway 27, thence along North Dakota Highway 27 to junction North Dakota Highway 32, thence along North Dakota Highway 32 to junction North Dakota Highway 46, thence along North Dakota Highway 46, thence along North Dakota Highway 38, thence along North Dakota Highway 38 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 18, thence along North Dakota Highway 18 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Interstate Highway 29, thence along Interstate Highway 29 to junction U.S. Highway 81, thence along U.S. Highway 81 to the North Dakota-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Jamestown, North Dakota.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-8550 Filed 4-1-75; 8:45 am]



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PART II



DEPARTMENT OF DEFENSE

Corps of Engineers,
Department of the Army

■

PROJECT DEAUTHORIZATION REVIEW PROGRAM

Proposed Policies and Procedures

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 266]

PROJECT DEAUTHORIZATION REVIEW PROGRAM

Proposed Policies and Procedures

Notice is hereby given that the Secretary of the Army, acting through the Chief of Engineers, is proposing a regulation prescribing policies and procedures to implement section 12, Pub. L. 93-251, Water Resources Development Act of 1974. The proposed regulation supersedes a final regulation published in the FEDERAL REGISTER on 15 May 1974 (33 CFR 213), which provided policies and procedures for only first-year implementation of the Program.

Under section 12, the Chief of Engineers has been directed to annually conduct a review of projects for possible deauthorization. A project is eligible for review only if it has been authorized for at least eight years and has received no funds in the last eight years. Reviews are conducted within the availability of funds appropriated by Congress. Each year, the Chief of Engineers will transmit a list of projects recommended for deauthorization to the Secretary of the Army for submittal to Congress.

The review process is designed to include the public both in determining which projects are reviewed each year for possible deauthorization (from the list of eligible projects) and in determining the appropriateness of recommending deauthorization by Congress.

Prior to adoption of the proposed regulation, consideration will be given to any comments submitted to the Chief of Engineers, on or before 15 May 1975, at the following address:

Chief of Engineers
Office of the Chief of Engineers
Department of the Army
ATTN: DAEN-CWP-A
Washington, D.C. 20314

Until the final regulation is adopted and so published in the FEDERAL REGISTER elements of the Office of the Chief of Engineers and field operating agencies having Civil Works responsibilities will utilize the proposed regulation as interim guidance in conducting reviews under section 12, Pub. L. 93-251.

Dated: March 18, 1975.

MARVIN W. REES,
Colonel, Corps of Engineers,
Executive Director of Civil Works.

PART 266—PROJECT DEAUTHORIZATION REVIEW PROGRAM

- Sec.
266.10 Purpose.
266.11 Applicability.
266.12 References.
266.13 Program eligibility.
266.14 Program policies.
266.15 Program management responsibilities.
266.16 Program procedures.

AUTHORITY: Section 12, Pub. L. 93-251, Water Resources Development Act of 1974 (88 Statute 16), dated 7 March 1974.

§ 266.10 Purpose.

This regulation provides policies and procedures for implementation of section 12, Pub. L. 93-251, which directs the Chief of Engineers to submit annually to Congress a list of projects which have been authorized for at least eight years, have received no funds in the last eight years, and which should be no longer authorized.

§ 266.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having civil works responsibilities.

§ 266.12 References.

(a) Section 12, Pub. L. 93-251, "Water Resources Development Act of 1974," (88 Stat. 16), dated 7 March 1974 (Appendix A).¹

(b) ER 1105-2-502, "Public Meetings," (33 CFR 209.405).

§ 266.13 Program eligibility.

The following criteria are applicable to determine if an authorized project is eligible for review under this program; assume that recommendations will be submitted on 1 January each year:

(a) The project must have been authorized for at least eight years prior to submission of a recommendation to Congress.

(b) The project must have received no funds for advanced engineering and design or construction in the successive eight years prior to submission of a recommendation to Congress. (Funds include those which have been appropriated by Congress or allotted with specific Congressional approval.)

(c) The project is not being reviewed under another Corps program.

(d) Projects which have been automatically deauthorized due to the expiration of the 5-year limitation for receipt of local assurances (33 U.S.C. 701c) are not eligible for review under this program.

§ 266.14 Program policies.

(a) A list of projects eligible for deauthorization will be maintained by OCE. Division and District Engineers will maintain those portions of the list for States within their respective areas of jurisdiction. Such listings may be made available to the public upon request.

(b) Within the capability for implementation of this program, and within available funds, projects eligible for deauthorization should be reviewed in the order of priority given in this subparagraph. Reporting officers may release information regarding which projects are being reviewed for deauthorization following receipt of funds to conduct such reviews.

(1) Projects for which a deauthorization review has been requested by a Congressional resolution adopted pursuant to section 12(e), P.L. 93-251.

(2) Completion of deauthorization reviews previously started.

¹ Text of sec. 12, Pub. L. 93-251 (88 Stat. 16) filed as part of the original document.

(3) Projects for which a deauthorization review has been requested by local interests (i.e., governmental or non-governmental entities in the project area), or national organizations having a legitimate interest in the project area.

(4) Projects considered by the reporting officer as suitable for a recommendation of deauthorization without further study.

(5) Projects requiring further study in order to make a recommendation concerning deauthorization.

(c) Review under section 12 should be conducted to the extent necessary to determine whether the project as authorized, should continue to be authorized based on the criteria in § 266.14e. The review is not intended to affirm the viability of the project as authorized or to reformulate the authorized project to meet current needs. These objectives are to be reserved for Phase I Advanced Engineering and Design, should the project become funded by Congress, for the Deferred for Restudy Program if the project was deferred due to lack of economic justification, or for a review specifically authorized by Congress. However, a review conducted under section 12 may provide sufficient information to recommend reclassification of the project.

(d) Reporting officers will solicit views from the public that would be affected by, or interested in, the authorized project and coordinate their review with other agencies, as part of their formulation of recommendations to Division Engineers on deauthorization. The procedures by which views are solicited are to be determined by the reporting officer, and may include public meetings, public notices, news releases and others.

(e) In addition to the eligibility criteria given in § 266.13, a recommendation for deauthorization must be supported by one or more of the following reasons:

(1) The project lacks economic justification, and it is apparent that a restudy would not develop an economically justified plan.

(2) The project, as authorized, is not adequate to meet current or prospective needs, and to obtain an adequate improvement would require such substantial modifications and involve such increased costs that the Corps could not proceed without new authorization from Congress.

(3) The project is generally opposed by local interests or there is little or no prospect that the required local cooperation will be forthcoming.

(4) The project, or part thereof, is no longer required because it has been accomplished by local interests or another agency, has been superseded by another project, or for any other reason.

(f) Recommendations of reporting officers and Division Engineers regarding project deauthorizations are considered internal staff recommendations to the Chief of Engineers and are not to be released to the public until the Chief of Engineers list of projects proposed for deauthorization is transmitted to States

and Federal agencies for comment. Information obtained during the deauthorization review process may be released on request.

(g) The Chief of Engineers will formulate his list of projects proposed for deauthorization based on the recommendations of Division Engineers. The Chief of Engineers will coordinate this list with Governors of affected States and Federal department, agency and instrumentality heads, as prescribed by section 12.

§ 266.15 Program management responsibilities.

(a) *Office of the Chief of Engineers.* Planning Division (DAEN-CWP) has primary responsibility for management of the program, to include providing guidance to field operating agencies, formulating recommendations for the Chief of Engineers based on inputs from Division Engineers, and formulating program budgetary submissions and work allowances. All funding and budgetary matters will be coordinated with DAEN-CWB, which will issue work allowances to field operating agencies.

(b) *Division Engineers.* Division Engineers are responsible for reviewing budgetary requests submitted by District Engineers and for recommending project deauthorizations to the Chief of Engineers in accordance with the procedures in § 266.16.

(c) *District Engineers/Operating Division Engineers.* Reporting officers are responsible for conducting reviews of projects in accordance with the policies and procedures contained in this regulation. Reporting officers are encouraged to annually conduct the maximum number of reviews possible within their capability and funding limitations.

§ 266.16 Program procedures.

(a) *Maintenance of eligibility listing.* A listing of projects eligible for deauthorization will be revised as necessary by DAEN-CWP-A. Division Engineers will submit changes together with recommendations, as provided in § 266.16c below, or at other times as they deem appropriate. A project will be removed from the listing:

(1) If funds are appropriated for advanced engineering and design or construction for the project,

(2) If deauthorized under section 12 or other appropriate legislation, or

(3) If either Committee on Public Works adopts a resolution stating that the project shall continue to be authorized.

(b) *Conduct of deauthorization review.* Pursuant to the policies stated in § 266.14, reporting officers should prepare project information sheets and other appropriate data for the purposes of public involvement, coordination, and documenting a determination on the appropriateness of deauthorization at the conclusion of the review. The reporting officer should conduct those studies and analyses, and initiate public involvement and coordination activities, as he deems

necessary to achieve the objective of this program and the Corps public involvement objectives. Public meetings, if held, will be generally in accordance with guidelines in ER 1105-2-502.

(c) *Submission of deauthorization recommendations to the Chief of Engineers (RCS DAEN-CWP-13).* Division Engineers will submit annually to the Chief of Engineers the following information. Submissions are to be sent to HQDA (DAEN-CWP-A) WASH DC 20314 by 1 September.

(1) Recommendations (in 3 copies) on projects for which reviews have been conducted since the previous annual submission, in accordance with the format given in Appendix B.²

(2) Project information sheets for all projects recommended for deauthorization, in accordance with the format given in Appendix C. A map which can be reproduced in black-and-white, 8" x 10 1/2" in size, should be attached whenever possible, to clearly indicate the project to be deauthorized. Project information sheets are to be typed in 12-pitch elite, with margins as shown, and are to be submitted as an original and one copy. The original will be signed by the reporting officer.

(3) Appropriate pages from the listing of projects eligible for deauthorization with changes noted by typing in the new data.

APPENDIX A

DISCUSSION OF SECTION 12, PUBLIC LAW 93-251 CONTAINED IN THE REPORTS OF THE COMMITTEES ON PUBLIC WORKS

Many water resources development projects become, after they are au-

² Appendices B and C filed as part of the original document.

thorized, inappropriate for one reason or another. Changing economic conditions may render them uneconomic. Population and industrial growth may make them inadequate to serve new needs. The local interests may decide they do not want a project. Yet, in all of these cases, unless the time consuming process of obtaining specific Congressional deauthorization through an Act of Congress is followed, the project remains authorized, is considered part of the backlog of authorized but unconstructed projects, and continues to discourage homeowners and landowners in the project area from maintaining, much less improving, their property.

It should be clearly noted that this section is not intended to be used as a vehicle for the abandonment by the Federal Government of maintenance of completed projects.

This section fulfills a very real need for a means to remove from the books projects which are not needed or justified, while at the same time providing ample congressional review and final decision-making authority.

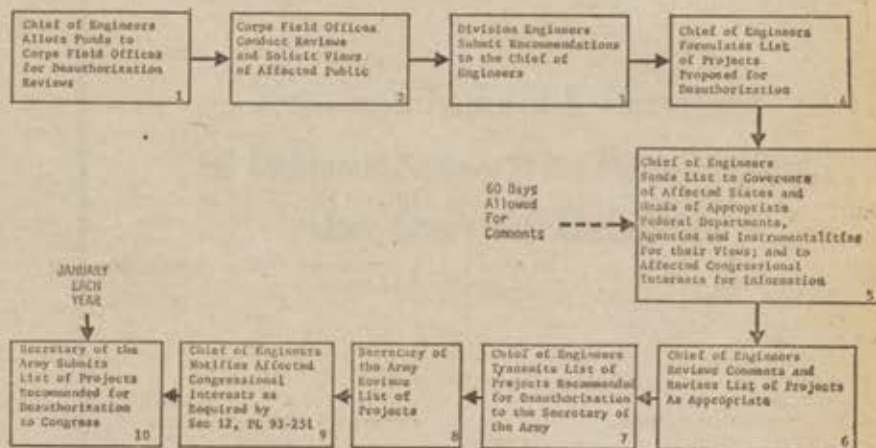
Sources:

Report of the Committee on Public Works, United States Senate, Water Resources Development and River Basin Monetary Authorization Acts of 1973, Report No. 93-615, December 11, 1973, p. 117.

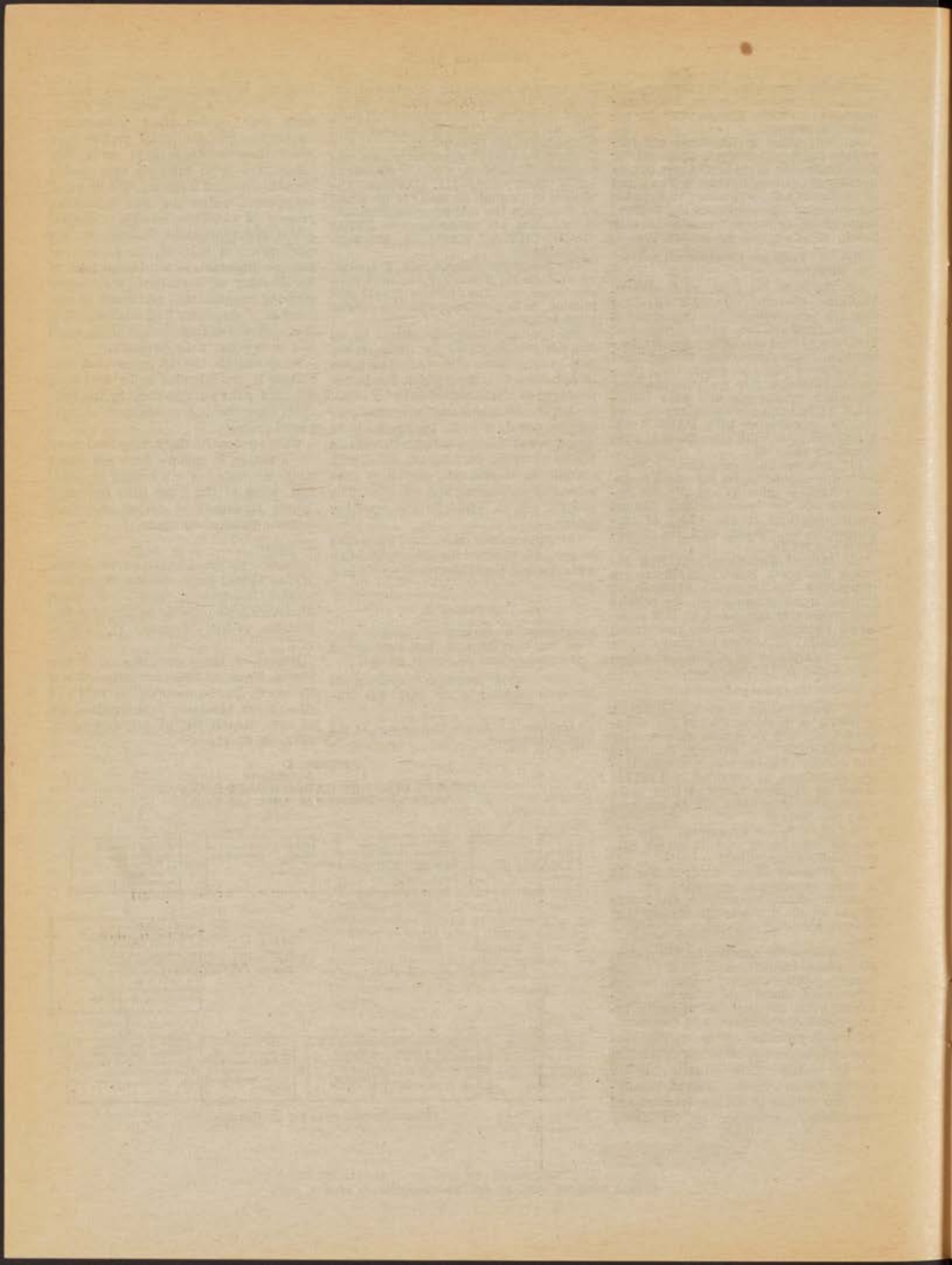
Report of the Committee on Public Works, House of Representatives, Water Resources Development Act of 1973 and River Basin Monetary Authorization Act of 1973, Report No. 93-541, October 3, 1973, pp. 90-91.

APPENDIX D

PROJECT DEAUTHORIZATION REVIEW PROGRAM (PURSUANT TO SECTION 12, PUBLIC LAW 93-251)



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PART III



ENVIRONMENTAL PROTECTION AGENCY



ENFORCEMENT AUTHORITY

**State and Federal Enforcement
of Implementation Plan Requirements
After Statutory Deadlines**

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 349-8]

ENFORCEMENT AUTHORITY

State and Federal Enforcement of Implementation Plan Requirements After Statutory Deadlines

The regulations proposed below establish a new Part 65 pertaining to enforcement authority. Under this new part rules would be established which the Agency would observe when ordering a source to comply with a requirement under Part 52, but only if the order includes a timetable for compliance that extends past the applicable attainment date under Part 52. Guidance under this new part would also set forth the minimum conditions under which the Agency would be willing to defer to similar enforcement action taken by the State.

On September 26, 1974, the Administrator proposed regulations under Part 52 and promulgated regulations under Parts 51 and 52 designed in part to implement the decisions of several Federal Courts of Appeal relating to State compliance deferral authority and procedures (39 FR 34533, 34572). The regulations promulgated under Part 51 (Subpart B) provided that no State plan implementing the national ambient air quality standards could contain enabling authority which would permit the State to defer compliance by a source after an attainment date without observing the postponement requirements of section 110(f) of the Act (40 CFR 51.11(g), 51.15(d), 39 FR 34535). The regulations promulgated under Part 52 (Subpart A) amounted to a finding that State plans generally were deficient, in that many, if not all, contained enabling authority which would permit deferrals after an attainment date without observing section 110(f); accordingly, all enabling authority was "disapproved" insofar as it permitted such deferrals (40 CFR 52.26, 39 FR 34535); and the effect of this disapproval was to expel from all State implementation plans any claim of authority to grant such deferrals. In conjunction with this general disapproval, regulations were proposed in Part 52 for all State plans, which would specifically preclude State action amounting to a deferral extending beyond an attainment date (39 FR 34574).

Since the promulgation and proposal of the September 26th regulations, the Agency has received numerous comments, primarily from representatives of the States, questioning the extent to which EPA intended in those regulations to limit State enforcement prerogatives. While the regulations apply explicitly to any "enforcement orders . . . or other State initiated measures designed to defer compliance . . .," it was not the intent of the Administrator to restrict a State from taking such enforcement action; rather, the intent was to prohibit the State from revising its implementa-

tion plan to reflect such action with the attendant effect of insulating the source from citizen suit or federal enforcement. Hence, if a State were to require a source to comply with a plan requirement after the federal deadline, and not require the source to shut down during the interim, the intent of the September 26th regulations was to prevent such action from being treated as a revision to the State plan. As a result, the source would gain no immunity from suit by a citizen under section 304 of the Act, or from enforcement action by EPA under section 113 of the Act. Therefore, if the public or EPA were to feel that such a source should comply more expeditiously, or even shut down, each would be able to pursue that objective according to procedures provided in the Act.

This is not intended to discredit use of the section 110(f) postponement procedure for obtaining post deadline compliance date extensions. Section 110(f) is essentially a complex variance mechanism with a high standard for approval. The rare source which wins a postponement under section 110(f) deserves insulation from further action. By contrast, the stated purpose of these regulations is not to provide plan protection to sources in violation, but rather to assure that such sources achieve compliance, albeit after the deadlines have passed.

In this respect, the Agency is reasonably certain now that a significant number of major air pollution sources will not achieve compliance by the mid-1975 deadlines. It also appears fairly certain that few States plan to resort to the use of section 110(f) to obtain postponements for these sources. Understanding this, the Agency intends to use its full enforcement authority under section 113 to insure compliance after the deadlines. Moreover, the Agency anticipates that the States will assist, to the extent they are able, by taking effective enforcement of their own.

Because of the magnitude of the problem it is more important now than ever before for the States to assume the principal role, given them by Congress, to insure that the national ambient air quality standards are attained rapidly and efficiently. Accordingly, the Administrator finds that it is appropriate to delineate specifically what EPA considers to be effective enforcement after a deadline, so that any State will know whether the action it is taking would be consistent with that which the Administrator would take in the same situation, and so that the source may gain some assurance that its conscientious compliance efforts, in response to a State issued enforcement order, will be relatively free from Federal challenge. Therefore, the major part of this proposed rule making, as explained in further detail below, establishes rules that the Administrator will follow when ordering a source to comply with a plan requirement after an attainment date, and guidelines that the State is urged to follow, both to insure that State implementation of section 110 through enforcement is in fact effective,

as well as to minimize the potential for independent EPA enforcement action in a given case.

Public participation requirements are included, primarily to encourage valuable public assistance, but with the hope as well that such public participation will minimize the need for independent citizen action, in cases of both Federal and State enforcement. Public participation is provided in the enforcement context because it is a natural follow-up to the requirements for public hearings which applied to the development of control requirements and compliance schedules (through variances, permits, enforcement orders, etc.) at earlier stages of the air pollution control effort. To attempt to exclude the public now and in the near future, when some of the most difficult compliance problems are being faced, would be inconsistent with one of the chief purposes of the Act.

SYNOPSIS

The regulations proposed below established a combination of substantive and procedural requirements (guidance for States) to be observed by an enforcement agency when proceeding with enforcement that will result in an enforcement timetable that extends past a statutory attainment date. Briefly, the substantive requirements are those presently pursued under the Agency's existing enforcement policy. They include existing regulatory requirements under Part 51, i.e., compliance must be achieved as expeditiously as practicable, or within a reasonable time, depending upon whether a primary standard is at issue (40 CFR 51.15 (b)); and, there must be appropriate increments of progress (40 CFR 51.15 (c)). There is an additional requirement that there be appropriate interim control measures.

In general, the procedural requirements involve the preparation of post attainment date enforcement schedules, public participation, and the essential characteristics of Federal/State coordination. The basic compliance plan, or order, should be prepared as a proposal prior to public participation, and the enforcement agency should have compiled all of the information necessary to support a finding that the plan, as proposed, satisfies the above noted substantive requirements. In addition, very general information concerning the alternative permanent control techniques should have been compiled. In some cases general information concerning interim control techniques should also have been compiled.

After the proposed plan or order has been prepared the public should be invited to comment and request a hearing. Fifteen days may be allowed to request a hearing—thirty days to submit comments. Whether or not a hearing should be held is at the discretion of a hearing officer, but depends largely upon the justification submitted by the person requesting a hearing. If a hearing is to be held, public notice will be given and the hearing may be scheduled within twenty-one days of the notice. The hearing

would normally be legislative, rather than adjudicatory.

In addition to issues regarding the substance of the compliance plan or enforcement order, the public is invited to comment on whether prior compliance efforts by the source have been in good faith. In cases where such comments are persuasive, it is expected that the enforcement agency will pursue an appropriate punitive remedy; however, it is not anticipated that a source will be forced, for that reason, to comply by some earlier date, since the schedule in each case is intended to reflect the earliest appropriate date.

Public notice of the final action is to be given. This notice is brief; but the public is to be given continued access to the final order after its issuance. (Access is also given to the proposed order, all preparation materials, modifications to the final order, written comments, and the record of the public hearing.)

Several exceptions to the procedural requirements are allowed. Any schedule that lasts ninety days or less is so close to immediate that preparation and public participation requirements are considered unnecessary. (This exception would be allowed only once for any source.) Another exception is allowed for the Federal enforcement agency to adopt a State action that complies with Federal guidance; however, the Regional Administrator must be prepared to support findings that the substance of the State plan is satisfactory and that the procedural requirements were satisfied. Finally, an exception is allowed for the Federal enforcement agency to forego certain public participation requirements when the Federal order is different from the State plan or when the State action has some other defect, but when there is no need for further public participation. In this case, too, the Regional Administrator must be prepared to justify his use of the exception. No mention is made of State adoption of Federal enforcement, etc., not because such action is deemed inappropriate, but because the State's ability to do so is purely a matter of State law; nothing in the Clean Air Act would prevent the State from taking such action.

The regulations are separated into requirements applicable to EPA, and guidance applicable to the States. Largely they are duplicative. The major reason for the separation is merely to emphasize that the State guidance is not obligatory. This is stated clearly in § 65.1(b).

APPLICABILITY

Federal orders. Section 113 of the Clean Air Act authorizes the Administrator to issue administrative orders requiring compliance with sections 111(e), 112(c), 114, 119(g), and substantive requirements of implementation plans under section 110. However, since the adoption of regulations requiring an opportunity for public participation and public notice is designed to offer the public an input into enforcement orders that delay compliance beyond the attainment dates

specified in Part 52 and mandated by section 110 of the act, only orders relating directly to attainment of the National Ambient Air Quality Standards are appropriately subject to these regulations. Federal orders requiring compliance with section 111(e) (New Source Performance Standards), section 112(c) (National Emission Standards for Hazardous Air Pollutants), section 114 or section 110 reporting requirements, or section 119(g) (Energy Related Authority), are therefore not subject to the requirements of these proposed regulations.

The Administrator acknowledges that there are also important statutory deadlines under sections 111 and 112, and that it may be appropriate at some time in the future to publish guidelines or regulations outlining criteria under which the Agency intends to exercise its enforcement authority under those sections. At present, however, the Administrator considers it more appropriate to defer the development of such criteria until there has been more extensive experience in the enforcement of those sections of the Act.

Orders to comply with section 119(g) are also inappropriate subjects of this proposed part. Congress has, in the section 119 amendments to the Clean Air Act, expressed an intent to supersede the provisions of section 110. Section 119 permits non-compliance with the emission limitations approved under section 110, while subjecting a source which has been granted a temporary suspension of those limitations, or which has been granted a compliance date extension, to other restrictions necessary for attainment and maintenance of air quality standards.

Federal orders to comply with the reporting requirements promulgated pursuant to section 114 (or reporting requirements adopted pursuant to section 110 of the Act) do not delay compliance with emission limitations or emission standards necessary for attainment of ambient air quality standards. As such, they, also, are not proper subjects of this proposed part, and are not covered.

It is intended that these regulations not apply to orders involving state plan requirements that do not bear a direct relationship to achievement of the ambient standards by permanent emission reduction. Thus, Federal orders which delay compliance with federally approved State mass or visible emission limitations, process weight or fuel burning regulations, and operation and maintenance regulations, are the types of orders to which this proposed Part applies. Where, however, the Federal order requires compliance with federally approved State monitoring or reporting requirements, provides only for interim control measures, or adopts or changes only increments of progress, (without affecting a final compliance date), the order is not covered.

State orders. The guidance provisions of this part, apply only to State compliance plans which order compliance with State implementation plan requirements directly related to attainment of

national ambient standards, and in which final compliance is required at a time beyond the attainment date specified in Part 52. The reasoning for this applicability is the same as stated above under *Applicability—Federal Orders*.

SUBSTANTIVE REQUIREMENTS

This proposed part imposes three kinds of substantive requirements on orders which result from Federal enforcement actions subject to Part 65, and provides identical guidance on compliance plans which result from State enforcement actions. These requirements set forth standards for the time limitations for compliance, the increments of progress, and the interim control measures contained in Federal orders.

The proposed § 65.3(a)(1) and the guidance of § 65.3(b)(1) require final compliance under the order as expeditiously as practicable with an implementation plan requirement necessary for attainment or maintenance of a primary standard, or requires final compliance under the order within the shortest reasonable time for any implementation plan requirement which is not necessary for the attainment or maintenance of a primary standard. Since these requirements are essentially the same as the individual source compliance schedule requirements under Parts 51 and 52, both EPA and the various State environmental agencies have experience in setting schedules which comply with these requirements.

The proposed § 65.3(a)(2) and guidance of § 65.3(b)(2) require that the order contain appropriate increments of progress together with deadlines for meeting those increments. These increments must conform with the requirements of § 51.15(c), which are those required in state compliance schedule submittals for Federal approval of State implementation plans. Once, again, both the States and EPA are familiar with, and experienced in, writing schedules which comply with § 65.3(a)(2) or § 65.3(b)(2).

The proposed § 65.3(a)(3) and the guidance of § 65.3(b)(3) require the enforcement action to result in an order or plan containing reasonable interim control measures to reduce emissions from the sources and to protect the primary standard. These sections may be complied with by a provision in the order which requires the sources to submit an interim control plan within a specified time. This interim plan will then be evaluated by the Regional Administrator, and approved, modified, or replaced with a substitute, and the interim control plan will subsequently be incorporated into the order and become enforceable as part of the order.

An interim control plan, as required herein, is one which protects the public health during the period in which the source is acting to limit emissions permanently by the final compliance date. The focus of standards for interim plans is upon the reasonableness—both in terms of the effect on the ambient standards

and upon the amount of emission reduction required. Thus, where a source impacts upon a primary standard that is currently being exceeded, more stringent interim control measures may be required of that source than if the primary standards were not presently being exceeded. However, in circumstances where the primary standard is being achieved, a source's interim control plan may still require substantial emission reduction, especially where such reduction is reasonable in terms of cost and availability. It is also expected that every attempt will be made to insure that such reduction measures are not incompatible with the technology required for ultimate achievement of applicable control requirements. Each source must be considered individually, and its circumstances analyzed in order to determine what are reasonable interim control measures. EPA and most states have experience in developing appropriate interim control plans.

PREPARATION OF THE ENFORCEMENT ACTION

In general, the same preparation required under § 65.5(a) for proposed Federal enforcement orders is also provided in the State guidance provisions of § 65.5(b) for proposed compliance plans. This preparation must be completed before publication of the notice of the opportunity to comment and request a hearing provided in §§ 65.4(a)(2) and 65.4(b)(2).

The proposed order must be developed in satisfaction of the substantive requirements of § 65.3(a)(1)-(3). The information supporting (1) the proposed final compliance date as proper in relation to the requirements of the plan, (2) the proposed increments of progress as appropriate and in conformance with § 51.15(c), and (3) the proposed interim control plan as reasonable and appropriate, must be assembled into one report, either in total or in summary form. In addition, a general description of the control equipment or measures which are available, and could be used to achieve compliance by the proposed final compliance date, must be compiled. If the proposed order does not contain interim control measures, but satisfies the requirements of § 65.3(a)(3) through a provision ordering submittal of an interim control plan, a general description of possible interim control measures must be compiled. If the proposed order contains a specific interim control plan, this general description is not required. The proposed action, report, and description are required in order to give the public a meaningful opportunity to participate, and in order to preserve a meaningful record of the action and its basis for the future reference of any interested person.

There are three categories of exceptions to these preparation requirements. First, short term orders and compliance plans under §§ 65.8(a)(1) and 65.8(b)(1) are excepted from all preparation requirements. The ninety-day time period is so short that it limits the alternatives available for compliance, and therefore the quantity of analysis necessary

for preparation of an appropriate order. Where compliance is almost immediate, the public receives little benefit from extensive formal preparation of the order. Accordingly, these short term orders are not subject to public participation prior to their effective dates.

The second category of exceptions is Federal orders which adopt State enforcement actions. Although in such instances the Regional Administrator need not provide for a second round of public participation, he must nevertheless compile information which supports his determination (1) that the State enforcement action complied substantially with the guidance of this Part relating to final compliance, increments of progress and interim control measures, and (2) that the resulting Federal order is not materially different from the State compliance plan.

The third category of exceptions is Federal use of State public participation, as provided in § 65.8(a)(3). Although all preparation requirements except development of a proposed order are still required, they do not need to be completed until notice of the final order is published in accordance with § 65.4(a)(5). In addition, however, the Regional Administrator must compile the information, or a summary of the information, which supports the three determinations required by § 65.8(a)(3)(i): (1) The State action is found to be defective in a manner which makes it inappropriate for Federal adoption; (2) it is found that the federal order is substantially identical to a proposed State enforcement plan with respect to which the State has already provided for public participation conforming to this part, or, if the federal order is not substantially identical to such State plan, it is found that the federal order reflects public comments made on the State plan; and (3) if the State did not hold a hearing on the proposed compliance plan, it is found that the decision not to hold a hearing was proper in relation to the requests for a hearing which were submitted.

PUBLIC PARTICIPATION

The proposed § 65.4(a) provides for public participation in each Federal enforcement action subject to this part, and the proposed § 65.4(b) provides guidance for public participation in each State enforcement action subject to this part. The public participation required is, at a minimum, the opportunity for written comment, and, at the maximum, the holding of a public hearing on the proposed order or compliance plan at the discretion of the hearing officer.

Sections 65.4(a)(1) and 65.4(b)(1) delineate the scope of public participation on the issues of a final compliance date, increments of progress, interim control measures, and whether or not prior compliance efforts by the source have been in good faith.

Initially, it is important to note that under this proposed Part the public will never be excluded from notice of an en-

forcement action. Their written comments on the enforcement action are invited in all cases before the effective date of the resulting order or compliance plan, except where the action comes within the exception provided in §§ 65.8(a)(1) and 65.8(b)(1). These sections apply respectively to short-term orders or compliance plans and Federal adoption of State enforcement. Notice to the public of an order or compliance plan as issued is always required, regardless of any public participation exceptions that may apply to an enforcement action prior to its issuance.

The public access to information provisions of § 65.6 set forth the requirements and guidance applicable to enforcement actions, in order that the public may have access to information necessary for meaningful public participation.

Although the public has in most cases an absolute right to comment in writing before the final order or compliance plan is issued, the right to a public hearing is not absolute. Rather, the holding of a public hearing as provided in §§ 65.4(a)(3) and 65.4(b)(3) is, within the discretion of the hearing officer, limited by the standards of significant public interest, and the pertinency and substantiality of information on the enforcement action that will be offered at such a hearing.

It is the Administrator's belief that although public participation is important, a mandatory hearing, or a hearing upon request as a matter of right, is an unnecessary burden on the resources available to both EPA and the State agencies. This decision is based on various factors. Among these are the Agency's favorable experience with similar hearing provisions under the Federal Water Pollution Control Act, and the Agency's sometimes unfavorable experience with mandatory hearings under section 110 of the Clean Air Act. These experiences have indicated that there is often not significant public interest in compliance plans for particular sources, and that on occasion there is no attendance at mandatory hearings involving such sources. Comments on preliminary drafts of this proposed part substantiate that the standards for holding a hearing under the Federal Water Pollution Control Act provide for maximization of both the opportunity for public participation and the use of manpower resources needed to hold hearings.

The procedure for inviting public participation is simple. After preparation of a proposed enforcement order under § 65.5(a), notice of the opportunity to comment and request a public hearing, and of the availability of the documents supporting the proposed order, will be given by prominent advertisement in the air quality control region in which the source is located. This notice will specifically state that individuals have fifteen days in which to submit requests for a hearing along with a statement supporting the need for the hearing, including their interest in, and a summary of information they intend to offer at such a

hearing. In addition, this notice will designate the individual who, as the hearing officer, will determine whether a hearing will be held. If no hearing is held, the order may be made effective thirty days after publication of the notice.

If the hearing officer, after receipt and consideration of the requests for a hearing, determines that a hearing should be held, notice of the hearing will be given by prominent advertisement. Since any hearing held pursuant to this proposed part is legislative, rather than adjudicatory, the procedures for a hearing will be published with this notice; it will contain particular information on the hearing as set forth in § 65.4(a)(3)(iv). These procedures will reflect both the purpose of the hearing as fact-finding and the differing circumstances in each case. Thus, the hearing officer may specify such procedural requirements as time limitations for testimony, submittal of testimony prior to the hearing, and the registration of a witness prior to the hearing, according to the circumstances of the case. Since the hearing is legislative, no strict rules of evidence need be followed, and the giving of testimony is limited only by the restraints of efficiency, relevancy, and the purpose of the hearing. The hearing will not take place sooner than twenty-one days after publication of the notice scheduling the hearing. An enforcement order on which a hearing is held may not be effective against the source prior to the conclusion of the hearing. The time period between the hearing and the effective date is unspecified, and is dependent on the amount of modification of the proposed order, if any, warranted by consideration of all public comments.

Within thirty days after the effective date of every order issued in accordance with this proposed part, public notice of the order will be given by prominent advertisement in the air quality control region in which the source is located. All notices, except for specific requirements regarding actual notice to specified individuals or agencies, are required to be by prominent advertisement. Prominent advertisement for Federal enforcement actions will be in newspapers in the locality where the source is situated. Prominent advertisement for State enforcement actions will be through the approach developed by the State under § 51.4. This notice requirement is identical to that required by § 51.4 for hearings on state implementation plan revisions and compliance schedules. Since all states have developed their own approaches to complying with § 51.4, this method of public notice is considered to be the most practical and most easily implemented.

EXCEPTIONS

Short-term orders and compliance plans. The Administrator feels that it is appropriate to exempt both the State and EPA from the public participation provisions of this part in certain instances where a source is put under a Federal order or a State compliance plan

of limited duration. Any order or compliance plan which sets final compliance within 90 days of its effective date, and which is the first such order or plan issued against a source, is exempted from the public participation requirements and guidance of this proposed part.

In general, it can be assumed that any compliance delay of 90 days or less is as expeditious as practicable. Any information relative to the timing or method of final compliance which the public could bring to the enforcing agency's attention can not justify delaying issuance of the short-term order by requiring prior public participation. However, under this proposal, the public is afforded notice of such orders under § 65.4(a)(6) and 65.4(b)(5).

This exemption applies to all orders and compliance plans, whether the source involved was subject to a compliance schedule adopted under Part 52, or a previous section 113 order or State enforcement order. The most important advantage of exempting these short-term orders from prior public participation is obtaining control over a source quickly through the issuance of an administrative order not subject to the 30 day minimum public participation delay—45 days, with a hearing. (In actuality the delay might be much longer.) Where a source can be ordered to comply within 90 days or less from the order's or the compliance plan's effective date, such delays are unwarranted.

This exemption in no way limits the right of a citizen to bring a section 304 action against a source subject to a short-term order or plan, nor does it limit section 113 action by EPA against a source subject to a State compliance plan exempted under § 65.8(b). Thus, these avenues remain available for correction of possible abuses of the exemption. Since only one such exempted order or plan per source will be available to EPA or the State, there is no possibility that the public will be excluded from participation for an indefinite amount of time. It is the opinion of the Administrator that the advantage of prompt compliance through an exempted short-term order outweighs any disadvantage of delay that public participation involves.

Federal adoption of State enforcement. In certain limited instances, EPA may issue a Federal order under this part without complying with the public participation requirements of § 65.4(a) or the preparation requirements of § 65.5(a)(1), (3) and (4). This exception to the usual procedures for issuing Federal enforcement orders, provided by § 65.8(a)(2), is available only where the resulting Federal order is, in all substantial aspects, identical to a State compliance plan issued pursuant to the guidance of this part.

Where Federal action is deemed appropriate, even though a source is already subject to a State compliance plan, and the appropriate Federal order is not materially different from the State compliance plan, it is the Administrator's opinion that a duplication by

EPA of the public participation requirements, and most of the preparation requirements of this proposed part (which have been complied with by the State agency) are unnecessary and contrary to the public interest. In such cases, the public has had an opportunity to comment and request a hearing on a proposed compliance plan, and has had for its inspection the information which would have been required under § 65.5(a)(1), (3), and (4) if no exception was applicable. Thus, the citizen has had an opportunity to participate in the formation of the state compliance plan which the Federal order adopts, and, in effect, has indirectly participated in the Federal enforcement action.

Although the resulting Federal order to which the exception in § 65.8(a)(2) may apply need not be identical to the State compliance plan it adopts, the two enforcement actions must not be materially different. For example, major differences in source reporting requirements would not eliminate use of this exception provision, primarily, because reporting is not the type of requirement that requires one specific solution to insure attainment of substantive objectives of this part, e.g., that compliance be attained as expeditiously as practicable. Differences which would prohibit use of the exception relate to fundamentally important requirements such as the timing of a final compliance date. Even in the latter case, however, some minor discrepancy would be permissible, e.g., a one or two week difference to alleviate some administrative inconvenience. It is expected that the use of this exception will rarely involve variations from the major substantive provisions in State compliance plans. To do so would be to establish conflicting Federal and State requirements. Normally a minor difference would not warrant imposing inconsistent requirements.

One expected use of Federal orders to which this exception will apply is the instance where a source, already subject to a State compliance plan issued in accordance with the guidance of this part, desires to be put under a similar Federal order to gain assurance that independent Federal action will not be taken. Where such circumstance occurs, and the Regional Administrator determines both that the compliance plan was issued in accordance with the guidance of this part and that it is an appropriate subject of Federal enforcement action, the Federal order comes within this exception. The Administrator encourages use of the federal adoption mechanism in all appropriate cases, and particularly encourages the use of consent orders to expedite the adoption process. Through waiver of the notice of violation and opportunity for a conference required by section 113 of the Act, a source subject to a Federally acceptable State compliance plan may be issued a federal enforcement order which adopts the State plan with minimum delay. Other appropriate circumstances for the adoption of State enforcement include cases in which the resources available to the State agency should be

augmented by the use of Federal resources for effective monitoring and assurance of compliance, and cases in which EPA believes minor requirements of an enforcement compliance schedule, such as reporting requirements, should be different from those provided in the State compliance plan. In addition, it may be appropriate for EPA to adopt State enforcement where the remedies for violation of the State compliance plan are not as strict or expeditious as those available for violation of a Federal order, and the Regional Administrator feels that the availability of such remedies is necessary to insure compliance.

Although a Federal order comes within the exception of § 65.8(a)(2), the Regional Administrator must still make available to the public a summary of the information under § 65.5(a)(2) supporting the substantive appropriateness of the order as required by § 65.3(a)(1)-(3), give public notice of the order as issued within 30 days of its effective date, and make publicly available information which supports the determination that the adopted compliance plan complied substantially with Part 65 guidance, and that the Federal order is both appropriate and not materially different from the State compliance plan.

Federal use of State public participation. Under § 65.3(a)(3) of this proposed part, EPA is exempted from the public participation requirements of § 65.4(a)(1)-(4) when pursuing the issuance of an independent Federal enforcement order under section 113 against a source already subject to a state enforcement action, provided that certain affirmative determinations designed to protect the public interest are made by the Regional Administrator. All other public notice requirements and the preparation requirements of § 65.5(a)(2)-(4) remain applicable to the Federal enforcement action and its development.

In order to comply with the requirements of § 65.8(a)(3) and thereby exempt the Federal enforcement action from public participation, the Regional Administrator must make several determinations. First, he should find that the State enforcement action is for some reason defective making federal adoption of the State plan under § 65.8(a)(2) inappropriate. Second, he should find that the State has provided for public participation consistent with the guidance of § 65.4(b) on either: (1) A proposed compliance plan which is substantially identical to the Federal order which EPA will issue, or (2) a proposed compliance plan not substantially identical to the Federal order, but in which differences are justified by public comment made on the proposed State plan. And third, he should find that if the State exercised its discretion under § 65.4(b)(3), deciding not to hold a public hearing, that such determination is supported by a review of the requests for such a hearing.

This exception from the public participation requirements of § 65.4(a)(1)-(3) eliminates repetitive public airing of issues already brought to the attention of

the Agency, the source, and the public. Where the issues involved in the Federal order are substantially the same as those involved in the State compliance plan, or the Federal order justifiably reflects public comment on the State's proposed compliance plan, the expenditure of resources involved in a second round of public participation is essentially duplicative and therefore would be unproductive.

After the determinations enumerated in § 65.8(a)(3)(1), as explained above, are made, a Federal order to which this exception applies may be issued effective immediately upon issuance. Notice of the order will be given pursuant to § 65.4(a)(5), and all preparation documents compiled pursuant to § 65.5(a)(2)-(4), as well as supporting information on the determinations required by § 65.8(a)(3)(1), must be available to the public.

GOOD FAITH AS AN ISSUE

The Administrator considers it appropriate and important to raise in the context of public participation the issue of whether prior compliance efforts by a source receiving an order or plan under this part have been in good faith. As a purely legal matter he is required by section 113(a)(4) of the act to consider such efforts when formulating a compliance schedule in any enforcement order—whether such order will expire prior to or after an attainment date. Moreover, it is the Administrator's determination that Congress expressed in section 110(f) of the act its clear intent that good faith be an important consideration in any postponement of a statutory deadline for an individual air pollution source.

The Administrator recognizes that there is some likelihood that many sources will not have complied with the applicable emission limitations by the statutory deadlines for justifiable cause. However, he also recognizes that non-compliance may also have resulted from a lack of effort, or, in some cases, a decision not to comply. In such cases, he considers it the Agency's responsibility to the public, and to those similar sources who have in good faith invested substantial resources in legitimate compliance efforts, to redress the wrong.

To this end, the Administrator encourages the public or any other interested person to comment during the public participation stage of a State or Federal enforcement action on whether a source's prior compliance efforts were in good faith. Although no formal finding concerning the issue is required, where a persuasive case is made, it is expected that the enforcement agency involved will pursue whatever punitive sanctions may be available. It is not expected, however, that a source will be penalized by requiring compliance by some earlier date, since the timetable in each case is intended to reflect the earliest appropriate date.

These regulations are intended to apply to any enforcement action that is not yet effective against a source on the date that the final version becomes effective. Interested persons may partici-

pate in this rule making by submitting written comments (in triplicate) to Richard D. Wilson, Division of Stationary Source Enforcement, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. All relevant comments received not later than May 3, 1975, will be considered. Receipt of comments will be acknowledged. Comments received will be available to the public at the Office of Public Affairs, 401 M Street SW., Washington, D.C. 20460.

This notice of proposed rule making is issued under the authority of sections 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-8 and 1857g).

Dated: March 26, 1975.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Chapter I, of Title 40, Code of Federal Regulations, by adding Part 65 as follows:

PART 65—ENFORCEMENT AUTHORITY

Sec.	Intent.
65.1	Definitions.
65.2	Enforcement deadlines for compliance.
65.3	Public publication.
65.4	Preparation of enforcement action.
65.5	Public access to information.
65.6	Effective date for enforcement order or compliance plan.
65.7	Exceptions.
65.8	Federal review of State enforcement action.
65.9	Savings provisions.

AUTHORITY: Secs. 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-8 and 1857g).

§ 65.1 Intent.

(a) No requirement under this part is intended to restrict enforcement authority except as specifically provided herein.

(b) Any requirement applicable to a State under this part is intended to be guidance only and not to be enforceable as such. There is no obligation that the State observe such guidance; however, if the State fails to do so, the Administrator may consider that failure when determining whether or not to enforce independently against a source that may have been the subject of a State enforcement action.

(c) Although the regulations under this part provide an opportunity for public comment and a hearing on the issue of whether prior compliance efforts by certain sources have been in good faith, there is no requirement or guidance that a finding relating to that issue be made. While a new time for compliance may be required, if evidence tends to indicate that a source has not exercised good faith, it is expected that the enforcing agency will give careful consideration to pursuing in a concurrent action whatever punitive sanctions may be available.

(d) It is intended that the requirements and guidance of this part apply only to an enforcement action which requires that a source comply with an emission limitation of an implementation plan after the applicable attainment date in that plan. This Part does not apply to an enforcement action that

requires compliance with a reporting or a certification requirement, an interim control measure, an increment of progress, or any other requirement that will not affect the final date by which the source must be in compliance with an emission limitation.

§ 65.2 Definitions.

Except as otherwise defined herein, terms used in this part shall have the meaning given them in the Act, Part 51, or Part 52.

(a) "Compliance plan" shall mean a plan for compliance issued by a State as a consequence of an enforcement action.

(b) "Emission limitation," for purposes of this part only, shall mean any requirement approved as a part of the control strategy of an implementation plan for the purpose of establishing a permanent limit on the amount of pollutants that may be emitted into the ambient air by a pollution source.

(c) "Enforcement action" shall mean enforcement action brought by either the State or the Administrator. If brought by the Administrator, "enforcement action" shall mean any action brought against a source pursuant to section 113(a) of the Act resulting in an enforcement order. If brought by a State, "enforcement action" shall mean any action against a source resulting in a compliance plan for that source to comply with an emission limitation of an applicable implementation plan, provided that such action is initiated by the State against a source found by the State to be in violation of an existing requirement under the implementation plan.

(d) "Enforcement order" shall mean an order to comply with a requirement of an applicable plan issued under authority of section 113(a)(4), and shall include an amendment to or modification of an existing enforcement order.

(e) "State" shall mean any agency or person authorized under State law to take the actions described in § 65.3 et seq.

§ 65.3 Enforcement deadlines for compliance.

(a) *Federal requirements.* Any Federal enforcement action that requires a person to comply with an emission limitation of an implementation plan after the applicable attainment date under that plan shall conform with the requirements of this paragraph.

(1) The enforcement action shall require final compliance as expeditiously as practicable with any requirement of a plan necessary for the attainment or maintenance of a primary standard; or, the enforcement action shall require final compliance within the shortest reasonable time with any requirement of a plan not necessary for the attainment or maintenance of a primary standard.

(2) The enforcement action shall result in a timetable for compliance which contains appropriate increments of progress with specific deadlines for achieving such increments. Such increments shall conform to those required

under § 51.15(c) of this chapter.

(3) The enforcement action shall require the source to apply reasonable interim measures to reduce emissions and protect against pollution concentrations in excess of those specified by a primary standard. In satisfaction of this requirement it shall be sufficient to require (i) that the source submit within the shortest reasonable time an interim control plan which may be approved, modified, or disapproved and replaced with a substitute plan by the Regional Administrator, and (ii) that upon such action the plan will become enforceable as a part of the order.

(4) The Regional Administrator shall have taken such enforcement action in accordance with the requirements of §§ 65.4, 65.5 and 65.6 of this part.

(b) *State guidance.* Any State enforcement action that requires a person to comply with an emission limitation of an implementation plan after the applicable attainment date under that plan should conform with provisions of this paragraph.

(1) The enforcement action should require final compliance as expeditiously as practicable with any requirement of a plan necessary for the attainment or maintenance of a primary standard; or, the enforcement action should require final compliance within the shortest reasonable time with any requirement of a plan not necessary for the attainment or maintenance of a primary standard.

(2) The enforcement action should result in a timetable for compliance which contains appropriate increments of progress with specific deadlines for achieving such increments. Such increments should conform to those required under § 51.15(c) of this chapter.

(3) The enforcement action should require the source to apply reasonable interim measures to reduce emissions and protect against pollution concentrations in excess of those specified by a primary standard. In satisfaction of this provision it will be sufficient to require (i) that the source submit within the shortest reasonable time an interim control plan which may be approved, modified, or disapproved and replaced with a substitute plan by the State, and (ii) that upon such action the plan will become enforceable as a part of the enforcement action.

(4) The State should have taken such enforcement action in accordance with the requirements of §§ 65.4, 65.5 and 65.6.

§ 65.4 Public participation.

(a) *Federal requirements.* (1) Except as provided in § 65.8(a), the Regional Administrator shall, subsequent to any conference offered under section 113 of the Act but prior to the effective date of an enforcement order, provide the public an opportunity for comment and offer the public an opportunity for a hearing on the following aspects of any enforcement order subject to this part:

(i) A proposed date for final compliance,

(ii) Proposed increments of progress, (iii) Proposed interim control measures, and

(iv) Whether or not prior compliance efforts by the source have been in good faith.

(2) *Notice of opportunity to comment and request a hearing.* (i) Notice of such opportunity shall be by prominent advertisement in the air quality control region in which the source is located. Actual notice shall be given to the State and local air pollution control agency involved. In the case of an interstate region actual notice shall be given to the State and local air pollution control agencies of each State included within the region.

(ii) Such notice shall contain, at a minimum, (A) notice of the opportunity as described in paragraph (a)(1) above, (B) the time limits for requesting a public hearing or making comments as described in paragraphs (a)(3) and (4) below, (C) a statement that any person requesting a public hearing shall include with his request a statement supporting the need for such a hearing, which includes an indication of his interest and a brief summary of the information he intends to offer at such hearing, and (D) the availability of the documents described in § 65.6(a).

(3) *Public hearing.* (i) At least fifteen days following publication of the notice described in paragraph (a)(2) of this section shall be allowed for receipt of a request for a public hearing.

(ii) A public hearing shall be held if the hearing officer finds that there is significant public interest in such a hearing or if there is pertinent and substantial information to be offered on the issues listed in paragraph (a)(1) of this section.

(iii) If a public hearing is to be held, the hearing shall be scheduled no sooner than twenty-one days following the notice described in paragraph (a)(3)(iv) of this section.

(iv) Notice of a public hearing shall be given the public and the State and local agencies in the same manner as required by paragraph (a)(2)(i) of this section. Such notice shall contain, at a minimum, the date, time, and place and subject of such hearing, as well as a brief description of how the hearing will be conducted.

(v) A hearing held pursuant to this subparagraph shall be legislative, not adjudicatory.

(4) Due consideration shall be given to all relevant public comment, whether submitted as a comment or adduced at a hearing, and where appropriate the enforcement order under consideration shall be modified in view of such comments.

(5) Within thirty days after the effective date of a Federal enforcement order issued in accordance with this part, the Regional Administrator shall give public notice of such action by prominent advertisement in the air quality control region in which the source is located. This notice shall include the source name, location, the applicable regulation, and a date for final compliance.

(b) *State guidance.* (1) Except as provided in § 65.8(b), the State should, prior to the effective date of a compliance plan, provide the public an opportunity for comment and offer the public an opportunity for a hearing on the following aspects of any compliance plan subject to this part:

- (i) A proposed date for final compliance,
- (ii) Proposed increments of progress,
- (iii) Proposed interim control measures, and
- (iv) Whether or not prior compliance efforts by the source have been in good faith.

(2) *Notice of opportunity to comment and request a hearing.* (i) Notice of such opportunity should be by prominent advertisement in the air quality control region in which the source is located. At the same time, actual notice should be given the Regional Administrator by certified mail. In the case of an interstate region actual notice should also be given to the State included within the region.

(ii) Such notice should contain at a minimum:

(A) Notice of the opportunity as described in paragraph (b)(1) of this section, and

(B) The time limits for requesting a public hearing or making comments as described in paragraphs (b)(3) and (4) of this section,

(C) A statement that any person requesting a public hearing should include with his request a statement supporting the need for such a hearing, which includes an indication of his interest and a brief summary of the information he intends to offer at such hearing, and

(D) The availability of the documents described in § 65.6(b).

(3) *Public hearing.* (i) At least fifteen days following publication of the notice described in paragraph (b)(2) of this section should be allowed for receipt of a request for a public hearing.

(ii) A public hearing should be held if the hearing officer finds that there is a significant public interest in such a hearing or if there is pertinent and substantial information to be offered on the issues listed in paragraph (b)(1) of this section.

(iii) If a public hearing is to be held, the hearing should be scheduled no sooner than twenty-one days following the notice described in paragraph (b)(3) (iv) of this section,

(iv) Notice of public hearing should be given the public, the Regional Administrator, and local agencies in the same manner as required by paragraph (b)(2)(i) above. Such notice should contain, at a minimum, the date, time, place and subject of such hearing as well as a brief description of how the hearing will be conducted.

(v) A hearing held pursuant to this subparagraph may be legislative, rather than adjudicatory.

(4) Within thirty days after the effective date of a State compliance plan, the state should give public notice of such action by prominent advertisement in

the air quality control region in which the source is located. This notice should include the source name, location, the applicable regulation, and a date for final compliance. A copy of the compliance plan in its final form, should be provided the Regional Administrator by certified mail immediately following its effective date.

§ 65.5 Preparation of enforcement action.

(a) *Federal requirements.* Except as provided in § 65.8(a), prior to the notice required by § 65.4(a)(2) of this chapter the Regional Administrator shall:

(1) Develop a proposed enforcement order which, in the Regional Administrator's determination, satisfies the requirements of § 65.3(a)(1)-(3), after giving full consideration to the best information available, including but not limited to such information as may have been provided by the source prior to or at a conference held pursuant to section 113(a)(4) of the Act; and

(2) Assemble into a single report all information, or a summary of that information, supporting the determination made in paragraph (a)(1) above; and

(3) Compile a general description of available control equipment or other control measures that could be used to attain compliance within the proposed final compliance time period; and

(4) Compile a description of possible interim control techniques (if such techniques are not described in the order).

(b) *State guidance.* Except as provided in § 65.8(b), prior to the notice required by § 65.4(b)(2) of this chapter, the State should:

(1) Develop a proposed compliance plan, which in the State's determination, satisfies the requirements of § 65.3(b)(1)-(3), after giving full consideration to the best information available, including but not limited to such information as may have been provided by the source prior to public notice under § 65.4(b)(2); and

(2) Assemble into a single report all information, or a summary of that information, supporting the determination made in paragraph (b)(1) of this section; and

(3) Compile a general description of available control equipment or other control measures that could be used to attain compliance within the proposed final compliance time period; and

(4) Compile a general description of possible interim control techniques (if such techniques are not described in the order).

§ 65.6 Public access to information.

(a) *Federal requirements.* (1) The proposed enforcement order and the information required by § 65.5(a)(1)-(4) shall be made available to the public at a place with reasonable public access and at reasonable times, beginning when notice of the opportunity for comment and a hearing under § 65.4(a)(2) is published, and thereafter.

(2) The Regional Administrator shall also provide reasonable public access at reasonable times to—

- (i) The final enforcement order, including requirements incorporated within the order at a later time, and
- (ii) Any written comments, and
- (iii) The record of the public hearing, if one has been held.

(b) *State guidance.* (1) The proposed compliance plan and the information as provided for by § 65.5(b)(1)-(4) should be made available to the public at a place with reasonable public access and at reasonable times, beginning when notice of the opportunity for comment and a hearing under § 65.4(b)(2) is published, and thereafter.

(2) The State should also provide reasonable public access at reasonable times to—

- (i) The final compliance plan, including requirements incorporated within the plan at a later time, and
- (ii) Any written comments, and
- (iii) The record of the public hearing, if one has been held.

§ 65.7 Effective date for enforcement order or compliance plan.

(a) *Federal enforcement order.* Except as provided by § 65.8(a), the enforcement order shall be effective against the source no sooner than thirty days after the publication of notice under § 65.4(a)(2) of this chapter, but shall not be made effective against the source prior to any public hearing.

(b) *State compliance plan.* Except as provided by § 65.8(b), the compliance plan should be effective against the source no sooner than thirty days after the publication of notice under § 65.4(b)(2) of this chapter, but should not be made effective against the source prior to any public hearing.

§ 65.8 Exceptions.

(a) *Federal exceptions.*—(1) *Short term enforcement orders.* (i) If an enforcement order under this part will require final compliance no later than ninety days following the date it is issued against a source, the order may be made effective against the source without prior public participation, and without observing the preparation requirements of § 65.5.

(ii) Within thirty days following the issuance of a short term order pursuant to this subparagraph, the Regional Administrator shall provide the public notice of such order as required under § 65.4(a)(5).

(iii) An exception under this subparagraph shall be allowed only once for each source.

(2) *Federal adoption of State enforcement.* (i) If the Regional Administrator determines that a State enforcement action complies substantially with the guidance under this part, but that a Federal enforcement action is nevertheless appropriate, he may forego the public participation requirements under § 65.4(a)(1) through (4) and the preparation requirements under § 65.5(a)(1).

(3) and (4) when bringing an enforcement action against the same source, provided that the resulting order is not materially different from the compliance plan required by the State. Such determination shall be made only after review of all actions taken in accordance with the guidance under this part, including review of a record of any hearing held pursuant to § 65.4(b)(3).

(ii) The Regional Administrator shall give public notice in the manner prescribed by § 65.4(a)(5) of any enforcement order for which the exception provided in this subparagraph is applicable.

(iii) Whenever an exception under this subparagraph is applicable, information normally required to be available to the public under § 65.6(a) need not include the descriptions required by § 65.5(a)(1), (3) and (4). However, in addition to the materials required by § 65.5(a)(2), information must be made available that supports the determination made in paragraph (a)(2)(i) of this section.

(iv) Enforcement orders issued pursuant to this subparagraph may be effective immediately upon issuance.

(v) Information prepared pursuant to paragraph (a)(2)(iii) of this section shall be made available to the public at the same time that public notice of the enforcement order is given under § 65.4(a)(5).

(3) *Federal use of State public participation requirements.* (i) If the Regional Administrator determines that a State enforcement action is for some reason defective, so that federal adoption under (a)(2) of this section is inappropriate, he may, in adopting a Federal enforcement order, forego the public participation requirements under § 65.4(a)(1)-(4) provided that—

(A) He finds, after reviewing the information made available by the State pursuant to § 65.6(b) that the State has

already provided for public participation in a manner consistent with the guidance under § 65.4(b)—

(1) On the compliance plan in question and that it is substantially identical to the federal enforcement order, or

(2) On the compliance plan in question and that, if not substantially identical to the federal enforcement order, any differences reflected in terms of the federal order are justified in view of public comment on the State compliance plan, and

(B) If no hearing was held by the State, he finds, after considering requests, if any, made to the State for such a hearing, that the State has acted in accordance with the guidance under § 65.4(b)(3)(ii).

(ii) Whenever an exception under this subparagraph is applicable, prior to the effective date of the order the Regional Administrator shall assemble into a single report all information, or a summary of that information, supporting the findings made in paragraph (a)(3)(i) of this section.

(iii) The preparation requirements under § 65.5(a) remain applicable, except that it is not required that a proposed order be developed. The required preparation must be accomplished prior to public notice under § 65.4(a)(5).

(iv) Enforcement orders issued pursuant to this subparagraph may be effective immediately upon issuance.

(v) Information prepared pursuant to paragraphs (a)(3)(ii) and (iii) of this section shall be made available to the public at the same time that public notice of the enforcement order is given under § 65.4(a)(5).

(b) *State exceptions.*—(1) *Short term compliance plans.* (i) If a compliance plan under this part, or an amendment thereof, will require final compliance no later than ninety days following the

date it is issued against a source, the compliance plan may be made effective against the source without prior public participation, and without observing the preparation requirements of § 65.5.

(ii) The State should give notice to the public and the Regional Administrator as provided by § 65.4(b)(4).

(iii) An exception under this subparagraph should be allowed only once for each source.

§ 65.9 Federal review of State enforcement action.

The State may at any time request a determination by the Regional Administrator as to whether a State procedure in general, or as applied in a specific case, satisfies one or more of the guidance criteria in this part. The Regional Administrator shall make a prompt response to any such request.

§ 65.10 Savings provisions.

(a) No enforcement action taken by the State shall in any way restrict the right of

(1) A person to sue independently for appropriate relief under section 304 of the Act, or other applicable law, or

(2) The Regional Administrator to enforce independently against that source under section 113 of the Act.

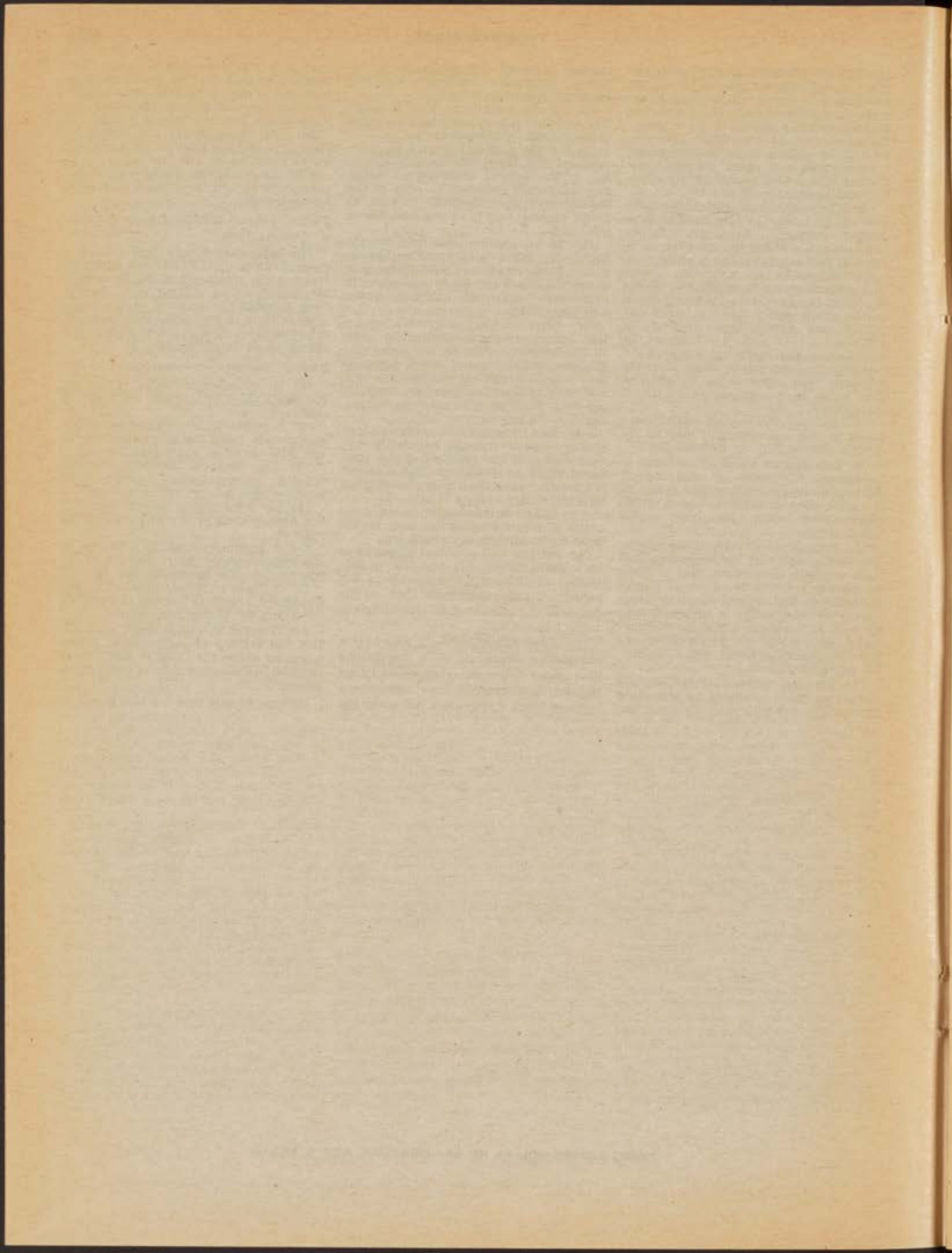
(b) No enforcement action taken by the Agency shall in any way restrict the right of

(1) A person (including a State) to sue independently under section 304 of the Act, or other applicable law, or

(2) A State to bring independent enforcement action to compel compliance according to stricter requirement.

(c) Nothing in this subpart shall affect the validity of enforcement action taken by either the State or the Agency prior to the effective date of these regulations.

[FR Doc.75-8398 Filed 4-1-75;8:45 am]



Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1974)

Title 2—Clemency	\$.70
Title 7—Agriculture (Parts 1000-1059)	4.35
Title 13—Business Credit and Assistance	3.60

[A Cumulative checklist of CFR issuances for 1974 appears in the first issue of the Federal Register each month under Title 1]

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